

**EXHIBIT 7 to the Declaration Of Laura W. Sawyer In Support Of Debtors' Motion For
An Order Excluding The Testimony Of Daniel Curry And Jeffrey Hasterok**

- PETER SHAPIRO -

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:)
LEHMAN BROTHERS) Chapter 11
HOLDINGS INC., et al.,) Case No. 08-13555 (JMP)
Debtors.) (Jointly Administered)

----- X

DATE: December 13, 2013

TIME: 9:40 a.m.

Videotaped DEPOSITION OF PETER
SHAPIRO, a 30(b)(6) witness, held at the offices of
Jones Day, 222 East 41st Street, New York, New
York, pursuant to Notice, before Hope Menaker, a
Shorthand Reporter and Notary Public of the State
of New York.

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<p>1 - PETER SHAPIRO - 2 A P P E A R A N C E S: 3 4 JONES DAY 5 Attorneys for the Debtors 6 222 East 41st Street 7 New York, New York 10017 8 BY: JAYANT W. TAMBE, ESQ. 9 LAURA SAWYER, ESQ. 10 REBEKAH BINGER, ESQ. 11 12 PACIFICA LAW GROUP 13 Attorneys for the Washington Tobacco Settlement 14 Authority and the Witness 15 1191 Second Avenue, Suite 2100 16 Seattle, Washington 98101-2945 17 BY: PAUL J. LAWRENCE, ESQ. 18 19 20 21 22 23 24 25</p>	<p>1 - PETER SHAPIRO - 2 Lehman Brothers Holdings Inc. 3 MS. SAWYER: Laurie Sawyer from Jones 4 Day for the Debtor. 5 MS. BINGER: Rebekah Binger, Jones 6 Day for the Debtor. 7 THE VIDEOGRAPHER: Now will the court 8 reporter please swear in the witness. 9 PETER SHAPIRO, called as a witness, 10 having been duly sworn on December 13, 2013, 11 by a Notary Public, was examined and 12 testified as follows: 13 76 South Orange Ave. 14 South Orange, NJ 15 16 EXAMINATION BY MR. TAMBE: 17 Q. Good morning, Mr. Shapiro. 18 A. Good morning. 19 Q. By whom are you currently employed? 20 A. Swap Financial Group. 21 Q. Is that a company that you have an 22 ownership interest in? 23 A. Yes. 24 Q. What's the nature of your ownership? 25 A. I'm the principal owner of the firm.</p>
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<p>1 - PETER SHAPIRO - 2 THE VIDEOGRAPHER: This is Tape 3 Number 1 of the videotaped deposition of 4 Mr. Peter Shapiro in the matter of In Re: 5 Lehman Brothers Holdings Inc., et al, 6 Debtors, in the United States Bankruptcy 7 Court, Southern District of New York, Case 8 Number 08-13555 (JMP). 9 This deposition is being held at 10 Jones Day, 222 East 41st Street, New York, 11 New York, on December 13, 2013, at 12 approximately 9:42 a.m. 13 My name is Ilitch Peters from the 14 firm of Elisa Dreier Reporting Corporation 15 and I'm the legal video specialist. 16 The court reporter is Hope Menaker in 17 association with Elisa Dreier Reporting 18 Corporation, located at 950 Third Avenue, New 19 York, New York. 20 For the record, will counsel please 21 introduce themselves. 22 MR. LAWRENCE: Paul Lawrence for the 23 Washington State Tobacco Settlement 24 Authority. 25 MR. TAMBE: Jay Tambe for the Debtor,</p>	<p>1 - PETER SHAPIRO - 2 Q. Are there other owners? 3 A. Yes. 4 Q. Who are the other owners? 5 A. The other owners are Nat -- Nathaniel 6 Singer, Bryna Linett and James Murphy. 7 Bryna, B-R-Y-N-A, last name Linett, 8 L-I-N-E-T-T and James Murphy, standard spellings 9 on that. 10 (Whereupon, a brief discussion was 11 held off record.) 12 Q. When was Swap Financial Group 13 founded? 14 A. 1997. 15 Q. Okay. You founded it? 16 A. Yes. 17 Q. Okay. And at the time it was 18 founded, who were the owners? 19 A. Myself, Bryna Linett, and John 20 Keenan, K-E-E-N-A-N. 21 Q. And Bryna is your wife, I take it? 22 A. Correct. 23 Q. What is your ownership interest in 24 Swap Financial Group? 25 A. Seventy-nine percent.</p>

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<p>1 - PETER SHAPIRO - 2 Q. And has it been 79 percent throughout 3 the -- 4 A. Correct. 5 Q. -- existence of Swap Financial Group? 6 A. Correct. 7 Q. Let's just talk about the size and 8 employees. 9 So when you started out in 1996, who 10 were the employees of Swap Financial Group? 11 A. We -- we sometimes make a distinction 12 between employees and partners, just because it's 13 a limited liability company but I'm just going to 14 use the word staff. 15 Q. And you include both in that? 16 A. Yes, including both. 17 Q. That's fine. 18 A. Okay. And there were three when we 19 initially started. 20 Q. And those were the three partners? 21 A. Correct. 22 Q. How many folks are staff at Swap 23 Financial Group now? 24 A. Right now, six. 25 Q. In 2008, in the fall of 2008, how</p>	<p>1 - PETER SHAPIRO - 2 A. During the time in question, you were 3 asking about 2008, it was in South Orange, though. 4 Q. Okay. That's good, thank you. 5 I'm going to hand you some documents 6 that have been marked as exhibits. I'm first 7 handing you a document marked as Shapiro Exhibit 8 1. 9 (Whereupon, Shapiro Exhibit 1 was 10 tendered to the witness for identification.) 11 Q. Do you recognize that document? 12 A. I do. 13 Q. Okay. And that's a subpoena that was 14 served on Swap Financial Group, correct? 15 A. Yes. 16 Q. Who was responsible at Swap Financial 17 Group for responding to the subpoena? 18 A. I would have principal 19 responsibility, although I might very well ask 20 others to assist me with that. 21 Q. So with respect to this subpoena, you 22 did, in fact, have principal responsibility to 23 respond -- 24 A. Yes. 25 Q. Yes?</p>
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<p>1 - PETER SHAPIRO - 2 many staff did Swap Financial Group have? 3 A. We had people come and go bit by bit. 4 It was either six -- it was -- it must have been 5 six, right around that. We don't -- we have been 6 as high as seven and we have been as low as five, 7 but it's in that range. 8 Q. That answers my question. 9 You've never had more than seven 10 staff at any given time? 11 A. I think not. We may have gone to 12 eight for a -- momentarily, but that's about it. 13 Q. And your offices, Swap Financial 14 Group's offices, where are those located? 15 A. Our principal office is in South 16 Orange, New Jersey. 17 Q. By your answer, I -- I assume that 18 you probably have offices that are not principal 19 offices? 20 A. Correct. 21 Q. Okay. So where are those offices? 22 A. We have people who have -- who work 23 out of other locations in suburban Philadelphia 24 and in San Diego. 25 Q. Okay.</p>	<p>1 - PETER SHAPIRO - 2 A. I'm a -- you know, I supervise. I 3 take principal responsibility. 4 Q. Okay. And who helped you with 5 responding to this subpoena? 6 A. Jay, what's the date on the subpoena? 7 Just to help me out here. 8 MS. SAWYER: August 27th. 9 Q. August 27, 2013. 10 A. August 27, 2013, the other person who 11 would have assisted me on this would have been 12 Lillian Chern. 13 Q. And that's a non-partner staff 14 member? 15 A. Correct. 16 Q. Now, one of things that this subpoena 17 calls for is the production of electronic 18 documents, correct? 19 A. Correct. 20 Q. What did you do to look for and 21 produce electronic documents in response to this 22 subpoena? 23 A. We -- we went through our various 24 computers to make sure that we produced everything 25 that was requested, that was not privileged.</p>

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1 - PETER SHAPIRO -
2 Q. When you say "various computers,"
3 does that include the laptop computer that was
4 used by James Vergara?
5 A. Yes.
6 Q. Okay. And you were able to access
7 that laptop?
8 A. Yes.
9 Q. Did you locate any responsive
10 documents on that laptop?
11 A. Lillian would have done it. Anything
12 that she thought was responsive, she would have
13 included.
14 Q. Were there documents or files on the
15 Vergara laptop that you were unable to access?
16 A. Not that I'm aware of.
17 Q. And do you still have the Vergara
18 laptop --
19 A. Yes.
20 Q. -- in your possession?
21 A. Yes.
22 Q. Now, Swap Financial Group, does it
23 have a document retention policy?
24 A. No.
25 Q. It's never had one?

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1 - PETER SHAPIRO -
2 A. It -- we -- we -- we did not have one
3 during the time in question. Now, I -- at this
4 point, we -- the firm is in various stages of
5 becoming subject to regulation under the
6 Dodd-Frank Act. Those regulations kick in in
7 various stages and they have been subject to
8 rule-making which has been put forward and then
9 pulled back. So it's -- it's been a little bit
10 tricky in terms of how we actually deal with the
11 various rule-making on this.
12 We have drafted a documentation
13 retention policy. I think I mentioned this in
14 some previous correspondence with your firm. But
15 whether or not it's -- you know, we're -- we're
16 waiting to make sure we get final rule making on
17 all of this.
18 Remember, in the time in question,
19 there was no regulatory framework that we were
20 subject to.
21 Q. And so, in the time in question,
22 again, let's just define the time in question as
23 2008 to the present. All right?
24 A. Or 2 -- I was thinking more 2008-2009
25 when -- during the period of time of the

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1 - PETER SHAPIRO -
2 termination. But, you know, if you went up to the
3 present, that's fine by me, too.
4 Q. Well, let's -- let's say 2008 through
5 2010.
6 A. Okay.
7 Q. To the end of 2010.
8 Am I right from your previous answers
9 that there was no formal document retention policy
10 during that time period?
11 A. We began to work on one, I believe,
12 in 2010 because that was when the first of the
13 Dodd-Frank rule started to -- seemed like they
14 were going to emerge.
15 I don't want to be technical here,
16 but there are various levels of Dodd-Frank
17 regulations that we start to become subject to.
18 There are ones that apply to under -- what's
19 called Title 7, the derivatives title. There are
20 also are ones that apply in our role as an advisor
21 to municipal entities, and that's a separate set
22 of rules; which is MSRB and SEC related, as
23 opposed to Title 7, which is CFTC and SEC related.
24 And we try to be very careful to make
25 sure we go -- you know, that we not just comply,

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1 - PETER SHAPIRO -
2 that we try to make sure that we're anticipating
3 what the spirit of these regs are.
4 Q. Other than any policies you may have
5 begun to draft or consider in response to
6 Dodd-Frank, in the relevant time period between
7 2008 and the end of 2010, did you have any other
8 policies in place with respect to document
9 retention?
10 A. We have spoken -- you know, we're a
11 small shop, as you can tell from my description of
12 the staff. We're all basically within earshot of
13 each other. We don't look like a lot of firms
14 that you may be accustomed to seeing; that is,
15 everyone can see each other, we sit within a
16 trading room together. We don't e-mail each other
17 back and forth, it would be silly because we can
18 see and hear each other, unless somebody is
19 traveling or something like that.
20 The -- so, on things like this, we
21 have spoken rules and one of the spoken rules,
22 obviously, is that we retain client
23 communications. So it's not -- it's not like we
24 have a written policy, but we've always had a
25 spoken rule to retain client communications.

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1 - PETER SHAPIRO -
2 Q. Okay. So again, just so I'm clear,
3 putting aside anything you may have done in
4 anticipation of Dodd-Frank regulations, is it your
5 testimony that you've always had a spoken policy
6 to retain all client communications?
7 A. That's correct.
8 Q. Okay. Other than --
9 A. I should say -- let me clarify.
10 There's a common sense to it; that is, we have
11 lots of client communications that go back and
12 forth like this: I can do the call on Monday at
13 2:30, I can't do it at Tuesday at 3:00. I don't
14 think anybody retains that kind of e-mail.
15 Q. Putting that aside -- again, so
16 putting aside the Dodd-Frank related efforts, and
17 putting aside this spoken policy about retaining
18 client communication, any other spoken or written
19 policies that were in place in the relevant time
20 period?
21 A. You're asking very broadly there.
22 Q. Yes, I am. It's not a very big shop,
23 as you said --
24 A. Yeah.
25 Q. -- so what were the policies?

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1 - PETER SHAPIRO -
2 MR. LAWRENCE: Object to the form of
3 the question.
4 Q. What were the policies?
5 A. Any other --
6 MR. LAWRENCE: Same objection.
7 A. -- we have policies which go to
8 making sure we're honest, ethical --
9 Q. I think I asked you about policies
10 related to document retention.
11 A. Oh, I --
12 MR. LAWRENCE: Excuse me. You can't
13 talk over each other. So let him answer,
14 finish his answer before you interrupt him.
15 A. I didn't -- you said any other
16 policies, so I thought you were asking very
17 broadly.
18 Q. So let's -- let's ask much more
19 specifically.
20 Other than any efforts related to
21 Dodd-Frank, other than the spoken policy
22 concerning client communications that you
23 testified about, can you identify any other spoken
24 or written policies Swap Financial Group had about
25 document retention in the 2008 through end of 2010

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1 - PETER SHAPIRO -
2 time period?
3 A. No.
4 Q. Starting sometime in September 2008,
5 you became involved in various engagements in
6 connection with the Lehman bankruptcy, correct?
7 A. Correct.
8 Q. In connection with any of those
9 engagements, any of them, did you adopt any
10 document retention policies --
11 A. Not --
12 Q. -- written or spoken?
13 A. Not that I can recall. And not that
14 differ in any way from what I've already testified
15 to.
16 Q. Approximately how many engagements
17 related to the Lehman bankruptcy has Swap
18 Financial Group entered into?
19 MR. LAWRENCE: I'm going to interpose
20 an objection as to relevancy as to anything
21 other than the Washington TSA engagement. If
22 we have an understanding that I have that
23 objection preserved, I'll let you go into
24 this a little bit.
25 MR. TAMBE: I hear your objection.

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1 - PETER SHAPIRO -
2 Q. Can you answer the question?
3 MR. LAWRENCE: Well, the -- the
4 answer is either you accept that my objection
5 is reserved or I instruct the witness not to
6 answer about other engagements.
7 So, if -- if you will agree that by
8 having -- allowing the witness to answer, I'm
9 not waiving the objection as to the scope of
10 your questioning, that's fine. If you want
11 me to -- if you're not willing to preserve
12 that objection, then I think we have to have
13 another discussion.
14 MR. TAMBE: Right. So I'm not
15 willing to waive -- I'm not willing to agree
16 to your proposal. I want an answer to my
17 question.
18 And if you can read the question
19 back, let's be clear about what the question
20 is.
21 (The question requested was back by
22 the reporter.)
23 MR. LAWRENCE: Same objection. You
24 can answer that question.
25 A. What do you mean by "engagements"?

<p style="text-align: right;">Page 18</p> <p>1 - PETER SHAPIRO -</p> <p>2 Q. How many different counterparties to</p> <p>3 Lehman have retained you to provide any advice in</p> <p>4 connection with the Lehman bankruptcy?</p> <p>5 MR. LAWRENCE: I guess you can only</p> <p>6 answer that to the extent that you're</p> <p>7 disclosed as a person by that entity.</p> <p>8 MR. TAMBE: No, that's not the</p> <p>9 question. The question is --</p> <p>10 MR. LAWRENCE: Then I'll instruct him</p> <p>11 not to answer.</p> <p>12 MR. TAMBE: Let me finish. Let me</p> <p>13 respond to your objection so we can have a</p> <p>14 clean record as to what's going on here.</p> <p>15 Q. What I'm asking is a very specific</p> <p>16 question: How many counterparties to Lehman have</p> <p>17 retained Swap Financial Group to provide any kind</p> <p>18 of advice -- start that again.</p> <p>19 How many counterparties to Lehman</p> <p>20 have engaged Swap Financial Group to advise them,</p> <p>21 in any capacity, with respect to the Lehman</p> <p>22 bankruptcy?</p> <p>23 MR. LAWRENCE: And I will instruct</p> <p>24 you to answer only to the extent that you can</p> <p>25 without waiving any privileges related to any</p>	<p style="text-align: right;">Page 20</p> <p>1 - PETER SHAPIRO -</p> <p>2 ballpark.</p> <p>3 Q. About a hundred?</p> <p>4 A. Plus or minus 50, I would say, Jay.</p> <p>5 Q. All right. That's fair.</p> <p>6 A. Okay. You know, just -- just to -- I</p> <p>7 don't want to -- want to -- I want to make sure</p> <p>8 I'm clear on this. With many of those entities,</p> <p>9 we've had multiple Lehman transactions involved.</p> <p>10 Q. So if you're representing a</p> <p>11 counterparty that had 10 separate swap</p> <p>12 transactions with Lehman, is that what you mean by</p> <p>13 multiple transactions?</p> <p>14 A. Yes. Some of them have more than a</p> <p>15 hundred.</p> <p>16 Q. I think my question is really not</p> <p>17 looking at the number of transactions, but numbers</p> <p>18 of entities.</p> <p>19 A. Yes. Yes. Elsewhere I know we've</p> <p>20 stated we've handled, you know, roughly a thousand</p> <p>21 transactions. That's where you get that number</p> <p>22 from.</p> <p>23 Q. So that thousand transactions is not</p> <p>24 a thousand counterparties?</p> <p>25 A. Correct. That's correct.</p>
<p style="text-align: right;">Page 19</p> <p>1 - PETER SHAPIRO -</p> <p>2 of those engagements.</p> <p>3 A. I don't have -- I don't have an exact</p> <p>4 number at my fingertips. I know we have been</p> <p>5 involved very extensively in all aspects.</p> <p>6 I'd ask you also, when you say</p> <p>7 "Lehman," what do you mean by "Lehman"? Because</p> <p>8 we've had -- there are many, many Lehman entities,</p> <p>9 as you know.</p> <p>10 Q. I mean all of the Lehman U.S.</p> <p>11 Debtors.</p> <p>12 A. So excluding international --</p> <p>13 Q. Yes.</p> <p>14 A. Are you including LBCB --</p> <p>15 Q. Yes.</p> <p>16 A. -- Lehman Brothers Commercial Bank,</p> <p>17 because that's been treated separately.</p> <p>18 Q. Yes, I'm including that.</p> <p>19 A. You know, it's been -- you know, in</p> <p>20 the, you know -- it's a large number of entities.</p> <p>21 I can --</p> <p>22 Q. More than 50?</p> <p>23 A. Yes, more than 50.</p> <p>24 Q. More than a hundred?</p> <p>25 A. It -- your -- somewhere in that</p>	<p style="text-align: right;">Page 21</p> <p>1 - PETER SHAPIRO -</p> <p>2 THE VIDEOGRAPHER: Can you shift --</p> <p>3 THE WITNESS: I'm sorry, want me to</p> <p>4 face more towards you?</p> <p>5 THE VIDEOGRAPHER: You're getting</p> <p>6 close to the machine.</p> <p>7 THE WITNESS: Why don't I shut this?</p> <p>8 Okay. Very good.</p> <p>9 BY MR. TAMBE:</p> <p>10 Q. Now, one of the partners you've</p> <p>11 identified at Swap Financial Group is Nat Singer,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. When did he become a partner at Swap</p> <p>15 Financial Group?</p> <p>16 A. He joined us in -- end of 2007, early</p> <p>17 2008, somewhere in there.</p> <p>18 Q. He joined from you Bear, Stearns; is</p> <p>19 that right?</p> <p>20 A. Yes. Prior to Bear, Stearns', you</p> <p>21 know, acquisition by JPMorgan.</p> <p>22 Q. Just generally, what role has</p> <p>23 Mr. Singer played with respect to the Washington</p> <p>24 TSA engagement?</p> <p>25 A. We have a general approach in the</p>

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1 - PETER SHAPIRO -
2 firm of discussing transactions throughout. We --
3 you know, we try to make it so that because we're
4 a small team, that everybody knows a little bit
5 about everything and Nat's been in the circle of
6 people with -- with whom we discuss this.
7 Q. Was he an author of the valuation
8 memos that were done, that have been produced in
9 this case by Swap Financial Group?
10 A. I wouldn't call him an author, no.
11 Q. Can you describe what his involvement
12 was in any of those valuation memos that have been
13 produced in this case?
14 A. He would discuss the elements that
15 would go into it.
16 Q. And do you have any recollection of
17 what elements of those valuation memos he
18 contributed to?
19 MR. LAWRENCE: Object to the form of
20 the question.
21 Q. You can answer.
22 A. The elements would have been the ones
23 I would characterize as substantive, not
24 grammatical review.
25 Q. And other than Nat Singer, who else

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1 - PETER SHAPIRO -
2 worked on the valuations done by Swap Financial
3 Group that have been produced in this case?
4 A. Can you give me the date of the ones
5 that you're talking about?
6 Q. I'm thinking primarily of ones in
7 April and September of 2009.
8 A. James Vergara would be the other one
9 that would be involved.
10 Q. Anyone else?
11 A. I don't believe so.
12 Q. Other than the valuations that were
13 done in April and September of 2009, are you aware
14 of any other valuations done by the Washington
15 TSA, let's say, in the time period January 2013 to
16 the present?
17 A. This January? You mean just over the
18 last twelve months?
19 Q. Yes.
20 MR. LAWRENCE: I'm going to instruct
21 him not to answer that question.
22 MR. TAMBE: I think the question was
23 whether he's aware.
24 MR. LAWRENCE: Right.
25 MR. TAMBE: And what is the basis of

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1 - PETER SHAPIRO -
2 the objection?
3 MR. LAWRENCE: Since in that time
4 period, Mr. Shapiro has only acted as a
5 consulting witness, so anything that he has
6 knowledge or he's learned, has done is
7 protected by attorney work product.
8 Q. Mr. Shapiro, have you been retained
9 as a testifying expert by Washington TSA?
10 MR. LAWRENCE: Other than to the
11 extent in responding to your subpoena here.
12 Obviously he's doing that.
13 MR. TAMBE: Yeah. Fair objection.
14 Fair objection. Let me be clear.
15 Q. Have you been retained by Washington
16 TSA to provide an expert report and expert
17 testimony at trial in this matter?
18 A. Just so I'm -- I'm not tripping up on
19 the legal definitions.
20 Q. Yeah.
21 THE WITNESS: Counsel, I think --
22 MR. LAWRENCE: If I can clarify.
23 He -- he -- in the sense of preparing an
24 expert report that will be disclosed under
25 the expert disclosure guidelines here, no, he

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1 - PETER SHAPIRO -
2 has not been retained for that.
3 Obviously, there's some degree of
4 expertise that went into the loss
5 calculations he's done to date and the proof
6 of claims and those calculations.
7 And -- and so to be clear, there's an
8 element of expertise that went into that and
9 those, obviously, you can ask about and those
10 are what they are.
11 But in terms a testify -- in terms of
12 an expert report that we're going to produce,
13 I think next week, no.
14 Q. Do you know who Washington TSA has
15 retained as a testifying expert to provide a
16 report next week?
17 MR. LAWRENCE: I will instruct the
18 witness not to answer that question.
19 Q. Putting aside the identity of the
20 person, do you understand that there is a person
21 who has been retained as a testifying expert?
22 MR. LAWRENCE: Instruct the witness
23 not to answer that question.
24 Q. Have you had any --
25 MR. TAMBE: Again, on what basis?

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<p>1 - PETER SHAPIRO - 2 MR. LAWRENCE: Same basis; that he's 3 a consulting expert, that would invade the 4 attorney work product. 5 Q. Okay. Have you had any discussions 6 with the person who may or may not have been 7 retained by the Washington TSA to be a testifying 8 expert in this case? 9 MR. LAWRENCE: Same objection and 10 same instruction. 11 Q. So -- has Swap Financial Group been 12 retained as a testifying expert in this matter? 13 MR. LAWRENCE: The answer is no. 14 MR. TAMBE: I could swear you in and 15 have you answer questions. 16 MR. LAWRENCE: I know. But in terms 17 of those types of issues, I think that's more 18 appropriately addressed to the attorneys. 19 MR. TAMBE: Okay. 20 MR. LAWRENCE: Again, they -- they 21 can and will testify about the calculations 22 that they did, that you're aware of. 23 MR. TAMBE: Just to be clear, Paul, 24 any interactions, written, spoken, et cetera, 25 that Mr. Shapiro may or may not have had with</p>	<p>1 - PETER SHAPIRO - 2 You have seen this document before 3 today, haven't you? 4 A. 11/1/13 -- I believe so. It's 5 addressed to me, but, you know, I'm honestly 6 having difficulty distinguishing it from the other 7 one. 8 Q. Okay. Again, my question was: Have 9 you seen this before today? 10 A. I can only say I believe so. You 11 know, we get a lot of documents. 12 Q. You get a lot of subpoenas? 13 A. We get a fair number. Since the 14 financial crisis, you know, there are lots of 15 controversies that go on where, you know, we're 16 involved in lots -- lots of client matters. 17 Q. How many times have you testified in 18 the Lehman bankruptcy? 19 A. Testified. What is -- how do you -- 20 Q. This is kind of a set up; you sit 21 down, take an oath, promise to tell the truth, the 22 whole truth. 23 A. I'm not -- I don't think I have in 24 another case in a Lehman bankruptcy. But I'm not 25 -- I'm just trying to think if I have.</p>
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<p>1 - PETER SHAPIRO - 2 your testifying expert, your position is I 3 can't examine him on any of those issues; is 4 that right? 5 MR. LAWRENCE: That's correct. To 6 the extent that the testifying expert relied 7 on any information from Mr. Shapiro in terms 8 of their expert opinion. You're certainly 9 free to ask the expert about that. 10 MR. TAMBE: I don't agree with you, 11 but we can move on. I understand your 12 position. So -- 13 Q. I'm going to hand you, Mr. Shapiro, a 14 document marked Shapiro Deposition Exhibit 2. 15 A. Would you like this one back? 16 Q. You can just keep that in front of 17 you. That would be fine, thank you. 18 (Whereupon, Shapiro Exhibit 2 was 19 tendered to the witness for identification.) 20 Q. Mr. Shapiro, you've seen this 21 document before today, correct? 22 A. How does this differ from the first 23 one that you gave me? 24 Q. If you can answer my question, I'll 25 let you know how it differs.</p>	<p>1 - PETER SHAPIRO - 2 You know, as you know, I've been in 3 many, many mediations, but that doesn't constitute 4 this kind of thing. That didn't fall into your 5 question, right? 6 Q. That's right. I'm thinking of 7 situations where you actually are under oath and 8 promise to tell the truth. 9 A. Yeah -- yeah. 10 Q. Can't think of any other? 11 A. I don't think so. I don't think so. 12 Q. How about outside of a Lehman 13 bankruptcy, how many times have you testified 14 under oath? 15 A. It's got to be in the range of 10 to 16 20. 17 Q. Has it been generally in connection 18 with litigations or in other matters? 19 I know you were a politician earlier 20 on in your life, so -- 21 A. Yes. 22 Q. Do you remember testifying under oath 23 as a politician? 24 A. Yes. 25 Q. Putting all that stuff aside. Since</p>

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<p>1 - PETER SHAPIRO - 2 you went into the financial sector -- 3 A. Finance, yes. 4 Q. -- how many times have you testified 5 under oath? 6 A. It would -- I would think it's -- 7 it's in the range of 5 to 10. 8 Q. And has -- and those have all been in 9 connection with the financial crisis or do some of 10 them predate the financial crisis? 11 A. I can think of one that predates the 12 financial crisis. 13 Q. Which one was that? 14 A. It was a case involving the Port 15 Authority of New York and New Jersey. 16 Q. Were you a party to that litigation? 17 A. No. 18 Q. Just a witness? 19 A. Yes. 20 Q. If you can turn to Page 4 of Exhibit 21 2. If you look at Page 4 and Page 5 of Exhibit 2, 22 you'll see a series of topics for examination. 23 Do you see that? 24 A. Yes. 25 Q. Have you seen that list before today?</p>	<p>1 - PETER SHAPIRO - 2 attorney-client, attorney work product 3 privilege. 4 Q. Let me be more precise. 5 Other than any documents you may have 6 reviewed by Paul, what documents did you review by 7 yourself to prepare for your deposition? 8 MR. LAWRENCE: I will instruct the 9 witness to the extent there are documents 10 other than the ones identified by us, you can 11 answer that question, if you looked at 12 additional documents in addition to whatever 13 documents were provided by us to prepare for 14 the deposition. 15 You can go ahead and answer to the 16 extent there were any additional documents. 17 A. No, no additional documents other 18 than what's been produced. 19 Q. Now, you understand that you are here 20 in a couple of different capacities, correct? 21 A. I -- you're getting into legalities 22 that are beyond my expertise so -- 23 Q. Maybe we should talk about that a 24 little bit, then. 25 A. Okay.</p>
Page 31	Page 33
<p>1 - PETER SHAPIRO - 2 A. Yes, I believe so. 3 Q. What did you do to prepare for your 4 deposition today? 5 A. I met with -- with Paul. We had 6 discussions, made sure I refreshed my memory. 7 Q. When did you meet with Paul to 8 prepare for your deposition? 9 A. Yesterday. 10 Q. Okay. Other than meeting with Paul 11 to prepare for your deposition, what else did you 12 do to prepare for your deposition? 13 A. I reviewed some of the documents. 14 Q. Other than meeting with Paul 15 yesterday and reviewing some documents, what else 16 did you do to prepare for your deposition today? 17 A. I tossed and turned during my sleep 18 last night slightly and I thought during the 19 shower this morning. 20 Q. Okay. Did you speak with anyone 21 other than Paul to prepare for your deposition? 22 A. No. 23 Q. What documents did you review? 24 MR. LAWRENCE: I'll instruct the 25 witness not to answer that question;</p>	<p>1 - PETER SHAPIRO - 2 Q. I'm going to hand you a document 3 marked Shapiro Exhibit 3. 4 (Whereupon, Shapiro Exhibit 3 was 5 tendered to the witness for identification.) 6 Q. Take a moment to review that document 7 and let me know when you're done. I'll ask you 8 some questions about it. 9 A. You want me to read through this 10 whole thing? 11 Q. Not the whole thing, you can flip 12 through it. We'll get to parts of it that I'll 13 give you time to read. 14 I just want to get a sense if you 15 recognize the document. That's really going to be 16 my first question. Take a few minutes, flip 17 through it. 18 A. Go on. 19 Q. Do you recognize the document? 20 A. No, I don't. 21 Q. Do you understand that you've been 22 designated by the Washington TSA as a so-called 23 30(b)(6) witness? 24 A. I -- I don't -- I wouldn't say I have 25 memorized that citation, but I know I'm designated</p>

<p style="text-align: right;">Page 34</p> <p>1 - PETER SHAPIRO - 2 by them as a -- as a witness under this, you know, 3 of some type. 4 THE WITNESS: Is 30 -- is that the 5 correct cite? 6 MR. LAWRENCE: That is the correct 7 cite. 8 THE WITNESS: Okay. Thank you. 9 Q. And what is your understanding of 10 what it means to be designated as such a witness 11 by the Washington TSA? 12 A. My understanding is that part of my 13 testimony is basically on behalf of the authority. 14 Q. Do you know what topics you've been 15 designated as the 30(b)(6) witness on? 16 A. I've seen a list of those, I don't 17 know them by heart. 18 Q. If we flip to Page 8 of Exhibit 3, 19 you'll see there's a series of deposition topics 20 on Pages 8 and 9 and 10. We can start going down 21 the list. 22 Do you understand -- 23 MR. LAWRENCE: Well, rather than 24 that, I can tell you we sent you -- 25 MR. TAMBE: Well, no, actually I want</p>	<p style="text-align: right;">Page 36</p> <p>1 - PETER SHAPIRO - 2 MR. LAWRENCE: The witness knows the 3 subjects that he knows about, has prepared 4 for the subjects that we've designated him 5 on. 6 Q. So let's go to Page 8 of Exhibit 3. 7 Have you been designated with respect 8 to Paragraph 1? 9 MR. LAWRENCE: I'm going to object 10 and you know the answer to that question so 11 it's -- I'm going to instruct the witness not 12 to answer. 13 Q. Have you been designated as the 14 witness on number 2? 15 MR. LAWRENCE: Same objection. Same 16 instruction. 17 Q. How about number 3? 18 MR. LAWRENCE: Same objection. Same 19 instruction. 20 Q. How about number 4? 21 MR. LAWRENCE: Same -- same 22 objection. Same instruction. 23 Q. How about number 5? 24 MR. LAWRENCE: Same objection. Same 25 instruction.</p>
<p style="text-align: right;">Page 35</p> <p>1 - PETER SHAPIRO - 2 to ask the witness -- 3 MR. LAWRENCE: No, no -- 4 MR. TAMBE: I want to ask the witness 5 what his understanding is. 6 MR. LAWRENCE: You can ask the 7 witness whatever, but I'm going to state what 8 the record is. 9 MR. TAMBE: No, you're not going to 10 clutter my record with speaking with 11 objections. 12 MR. LAWRENCE: Okay. Then I'll 13 instruct him not to answer the question. 14 MR. TAMBE: Okay. We'll do it that 15 way. 16 MR. LAWRENCE: You know exactly what 17 subjects he's been designated on. 18 MR. TAMBE: No, I want to know what 19 this witness knows, not what you know, Paul. 20 MR. LAWRENCE: It doesn't matter what 21 he knows, it matters what we've designated. 22 So... 23 MR. TAMBE: It's fairly remarkable 24 that you take the position it doesn't matter 25 what the witness knows, when he's the one --</p>	<p style="text-align: right;">Page 37</p> <p>1 - PETER SHAPIRO - 2 Q. How about number 6? 3 MR. LAWRENCE: Same objection. Same 4 instruction. 5 Q. How about number 7? 6 MR. LAWRENCE: Same objection. Same 7 instruction. 8 Q. Topic number 8? 9 MR. LAWRENCE: Same objection. Same 10 instruction. 11 Q. Number 9? 12 MR. LAWRENCE: Same objection. Same 13 instruction. 14 Q. Number 10? 15 MR. LAWRENCE: Same objection. Same 16 instructions. 17 Q. Number 11? 18 MR. LAWRENCE: Same objection. Same 19 instruction. 20 Q. Number 12? 21 MR. LAWRENCE: Same objection. Same 22 instruction. 23 Q. Number 13? 24 MR. LAWRENCE: I feel like this is 25 one of those limericks where you have to say</p>

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1 - PETER SHAPIRO -
2 things fast.
3 Same objection. Same instruction.
4 Q. Number 14?
5 MR. LAWRENCE: Same objection. Same
6 instruction.
7 Q. Number 15?
8 MR. LAWRENCE: Same objection. Same
9 instruction.
10 Q. Now, putting aside the topics here,
11 what is your understanding of the topics that you
12 believe you've been designated to testify about?
13 You've got to have some sense of what
14 you are supposed to talk about, right?
15 A. You know, I have -- you know, a
16 general sense in terms of, you know, discussing
17 the valuation of contract, some of the things that
18 went into the methodological considerations and
19 the like. And you know, again, if -- if I -- if
20 you wanted counsel to tell me what was designated,
21 we can do that, obviously. You know that.
22 Q. Well, I was hoping he would have told
23 you that in preparation for your deposition.
24 A. Well, I didn't memorize that, you
25 know, which sections.

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1 - PETER SHAPIRO -
2 Q. So you understand it's something to
3 do with the valuation of the contract, some method
4 -- methodological considerations.
5 What else?
6 A. You know, I'd have to go down -- go
7 down the list.
8 Q. We just went down the list.
9 A. Is there a reason for having a memory
10 contest on this?
11 Q. It's not a question of a memory
12 contest.
13 The issue is subpoenas --
14 A. Right.
15 Q. -- deposition notices are serious
16 things.
17 MR. LAWRENCE: Do you have a
18 question --
19 MR. TAMBE: He asked me a question.
20 MR. LAWRENCE: -- are you making a
21 speech?
22 MR. TAMBE: He asked me a question,
23 I'm telling him.
24 MR. LAWRENCE: It doesn't matter.
25 MR. TAMBE: You want him to be

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1 - PETER SHAPIRO -
2 uninformed on the topics, you want him to be
3 uninformed on the process, and you think it
4 doesn't matter what he knows.
5 MR. LAWRENCE: He's fully informed on
6 the topics --
7 MR. TAMBE: I think the record
8 suggests otherwise, Paul.
9 MR. LAWRENCE: Well, that's fine, we
10 can argue that. But he's fully informed on
11 the topics. You know what the topics are and
12 you're playing a game. So if you want to
13 continue to play games, we'll continue to
14 have the same colloquy.
15 MR. TAMBE: Go back to my question
16 before an objection was interposed.
17 (The question requested was read back
18 by the reporter.)
19 Q. So as I was answering your question,
20 Mr. Shapiro, these are serious things. You've
21 been designated by the Authority as a witness on
22 certain topics and you have an obligation, and the
23 TSA has an obligation to make sure you understand
24 what that means, so you're adequately prepared to
25 answer questions based on those things.

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1 - PETER SHAPIRO -
2 That's why I'm asking you what's your
3 understanding is, what is it that you've been
4 designated for --
5 A. And let me --
6 MR. LAWRENCE: Hold on a second. If
7 you're making speeches, I'll make a speech,
8 too.
9 MR. TAMBE: Well, you shouldn't stop
10 now because you have been making speeches all
11 morning.
12 MR. LAWRENCE: You said the TSA is
13 obligated and we are obligated. And we've
14 identified to you, and I'm going to identify
15 on the record, you can object to it, what
16 subjects we've identified Mr. Shapiro for and
17 he's fully prepared to testify on the
18 subject.
19 Some of them are co-designations.
20 But 4B, 5A and B --
21 MR. TAMBE: Hold on a second. Go
22 slowly.
23 Q. Mr. Shapiro, you have Exhibit 3 in
24 front of you. Why don't you circle, as Paul
25 speaks --

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1 - PETER SHAPIRO -
2 A. That's what I'm doing.
3 Q. -- that way we're not testing or
4 taxing your memory.
5 MR. TAMBE: So go ahead, Paul. I
6 object to your process, but go ahead.
7 MR. LAWRENCE: Appreciate it. 4B; 5A
8 and B; 7 to the extent it relates to the
9 declaration of Peter Shapiro; 8 as it -- with
10 respect to the loss calculation memorandum; 9
11 with respect to the loss calculation
12 memorandum; and 11B.
13 And in some of those instances we've
14 co-designated other people, either Kim Herman
15 or Bob Cook as our 30(b)(6).
16 Q. All right. You got all those,
17 Mr. Shapiro?
18 A. I do.
19 Q. Okay. So again, with those topics
20 identified for you at this deposition, if you
21 could search your memory and tell me if you did
22 anything different to prepare with respect to
23 those topics than what you've already talked
24 about?
25 A. No.

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1 - PETER SHAPIRO -
2 Q. So you spoke with Paul and you looked
3 at some documents?
4 A. Correct.
5 Q. You spoke with Paul the one time?
6 Yesterday?
7 A. We -- we had telephone conversations
8 prior to that, but we sat down together to prepare
9 for this.
10 Q. Okay. So other than the sit down to
11 prepare for this deposition, were any of your
12 other telephone conversations with Paul in
13 preparation to testify at this deposition?
14 MR. LAWRENCE: Again, you can't
15 reveal the content, just -- you can answer
16 that question.
17 A. Yes.
18 Q. So how many such preparatory
19 telephone conversations did you have with Paul?
20 A. I can't recall how many telephone
21 conversations, honestly.
22 Q. Many?
23 A. No.
24 Q. And was there anyone other than Paul
25 on any of those calls?

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1 - PETER SHAPIRO -
2 A. There may have been.
3 Q. Maybe? Do you know who that was?
4 A. Other lawyers.
5 Q. Anyone?
6 A. Other people on Paul's end, not on my
7 end.
8 Q. Other people on Paul's end. Do you
9 know any of them?
10 A. Do I know them? I know he has other
11 attorneys that work with him.
12 Q. Do you know their names?
13 A. I know from, you know, various
14 e-mails that there are other attorneys who are
15 working on this assignment.
16 Q. Well, I have -- we got here with a
17 slightly more specific focus.
18 Those telephone calls that you were
19 in, that you were on with Paul, that were in
20 preparation for this deposition, were there other
21 people on those calls from Paul's end?
22 A. There -- again, I'm saying there may
23 have been.
24 Q. Do you remember anyone who was on any
25 of those calls, those preparatory calls?

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1 - PETER SHAPIRO -
2 A. Not clearly. I'm not recalling
3 specifically.
4 Q. So you can't recall specifically if
5 any of those people provided any information to
6 you when you were preparing for this deposition on
7 those preparatory calls?
8 A. I don't want to sound at all evasive
9 on this, I'm just trying to remember. There were,
10 you know, there were communications regarding the
11 timing of the deposition, the location of the
12 deposition, some of those were done by e-mail.
13 You know, some were done by telephone. I didn't
14 make a distinct mental note about which ones were
15 done which way.
16 Q. I'm still trying to figure out
17 whether you have a memory of someone other than
18 Paul being on any of the preparatory calls that
19 you had. Do you have such a memory?
20 A. Not -- not with regard to anything
21 meaningful.
22 Q. You said there weren't many such
23 preparatory calls. Can you give me an
24 approximation of how long you spent in total
25 across all those preparatory calls?

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1 - PETER SHAPIRO -
2 A. On telephone calls?
3 Q. Yes, telephone calls.
4 A. My guess is if it were 15 minutes it
5 would be a lot.
6 Q. That's helpful. I understand it's
7 not precise, but it's helpful in terms of order of
8 magnitude.
9 Okay, fine. Do you keep a working
10 file of this matter in your office?
11 A. You mean like a paper file?
12 Q. Yes.
13 A. No.
14 Q. Do you keep an electronic file?
15 A. I -- I have electronic -- I keep, you
16 know, electronic the documents and everything like
17 that that gets sent, any e-mails, as I've
18 mentioned.
19 Q. So do you keep a set of all of the
20 documents that have been filed in Court or in the
21 mediation, for example?
22 A. Sometimes I do, sometimes I don't.
23 If I think they're able to be accessed from
24 another source I might not save them myself.
25 Q. So what other sources do you have to

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1 - PETER SHAPIRO -
2 access documents related to this matter?
3 A. I go back to Paul or one of the other
4 people involved.
5 Q. Okay. I guess what I'm trying to
6 figure out is who are the other people involved.
7 If it's not Paul that you're getting
8 documents from, who else are you getting documents
9 from?
10 A. Do -- do you have a list of the other
11 lawyers involved?
12 Q. Are they all other lawyers?
13 MR. LAWRENCE: I'm not quite sure
14 what you're asking.
15 MR. TAMBE: I'm trying to figure out
16 where he goes to get documents.
17 MR. LAWRENCE: Other than Pacifica
18 and R3-M.
19 Q. Other than Pacifica and R3-M, other
20 than the lawyers acting for Washington TSA?
21 A. Those are two that I would go to,
22 yes.
23 Q. Did you ever go directly to the TSA
24 to get documents?
25 A. I -- if it were something that

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1 - PETER SHAPIRO -
2 preceded the, you know, involvement of the lawyers
3 I might. You know, we deal with TSA on kind of a
4 variety of things.
5 Q. Well, the first time you ever dealt
6 with the TSA on an engagement was December 2008,
7 correct?
8 A. Say again? I didn't get the year.
9 Q. December 2008.
10 A. December 2008, it would be around
11 that time. It may have been November, I can't
12 remember precisely.
13 Q. Post-Lehman bankruptcy?
14 A. Post-Lehman bankruptcy.
15 Now, let me just for the record make
16 sure it's clear about one thing. Remember the
17 staffing for the TSA is the same as the staffing
18 for the Washington State Housing Finance
19 Commission which was a client prior to that. So
20 the person who would be on the telephone or in an
21 e-mail, you know, wouldn't be saying, now I'm
22 talking to you as a member of the -- as a staffer
23 for the TSA, as opposed to for Housing.
24 Q. Yeah, but let's be clear. Before the
25 Lehman bankruptcy, you'd never been engaged by the

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1 - PETER SHAPIRO -
2 Washington TSA, that authority, for any purpose;
3 is that correct?
4 A. That is correct.
5 Q. That's kind of important, isn't it,
6 which authority you're working for?
7 MR. LAWRENCE: Objection. That's
8 argumentative. I'll instruct the witness not
9 to answer.
10 Q. Sir, is it important to know what
11 authority you're working for?
12 MR. LAWRENCE: Same objection.
13 A. Sure.
14 Q. It's municipal finance, these things
15 are kind of sensitive, aren't they?
16 A. I -- I'm just listening to you
17 lawyers go back and forth.
18 Q. You shouldn't really. You should
19 listen to the questions and answer them.
20 A. It's interesting for me. I don't get
21 to hear this kind of stuff that often.
22 Q. Let's go back. In municipal finance,
23 is it important, sir, to know what authority
24 you're working for?
25 A. Of course.

<p style="text-align: right;">Page 50</p> <p>1 - PETER SHAPIRO -</p> <p>2 Q. It's important, right, it's checks</p> <p>3 and balances?</p> <p>4 A. I said of course, yes.</p> <p>5 Q. Earlier you'd said --</p> <p>6 A. I don't know about checks and</p> <p>7 balances, by the way, but that's a different</p> <p>8 question.</p> <p>9 Q. You don't think there's checks and</p> <p>10 balances?</p> <p>11 A. Checks and balances I interpret as</p> <p>12 branches of government checking one another and</p> <p>13 stuff like that. But that's my -- my history</p> <p>14 lesson; the judiciary versus the legislature</p> <p>15 versus the executive branch.</p> <p>16 I don't think there are any checks</p> <p>17 and balances between the staff of the Housing</p> <p>18 Commission and the Tobacco Settlement Authority in</p> <p>19 this case.</p> <p>20 Q. But there are some checks and</p> <p>21 balances about how that staff goes about hiring</p> <p>22 consultants and contractors, correct?</p> <p>23 A. My understanding of checks and</p> <p>24 balances means that -- means between different</p> <p>25 branches of government. So I would have to say</p>	<p style="text-align: right;">Page 52</p> <p>1 - PETER SHAPIRO -</p> <p>2 A. No.</p> <p>3 Q. They're not spending taxpayer money?</p> <p>4 A. They're often spending ratepayer</p> <p>5 money, they're spending, you know, other sources</p> <p>6 of revenue. There are many other sources of</p> <p>7 revenue besides taxes that go through state and</p> <p>8 local governments.</p> <p>9 Q. And should --</p> <p>10 A. They're public monies, but they're</p> <p>11 not necessarily taxpayer monies.</p> <p>12 Q. Okay. That's better, public monies.</p> <p>13 A. Yes.</p> <p>14 Q. And to the extent they're spending</p> <p>15 public monies, states like Washington have rules</p> <p>16 about how those public monies get spent, correct?</p> <p>17 MR. LAWRENCE: Objection.</p> <p>18 Argumentative. And to the form of the</p> <p>19 question.</p> <p>20 A. Generally, yes.</p> <p>21 Q. And part of that process which I will</p> <p>22 call a check is those public monies can't be</p> <p>23 given, for example, to consultants and contractors</p> <p>24 without making sure some process is followed in</p> <p>25 retaining those consultants and contractors,</p>
<p style="text-align: right;">Page 51</p> <p>1 - PETER SHAPIRO -</p> <p>2 no, on that.</p> <p>3 Q. Are there any checks on the authority</p> <p>4 of the staff of the TSA to hire consultants and</p> <p>5 contractors?</p> <p>6 A. What do you mean by --</p> <p>7 MR. LAWRENCE: Object to the form of</p> <p>8 the question, but you can clarify.</p> <p>9 Q. Sir, you were in local government?</p> <p>10 A. Yeah. But what do you mean by</p> <p>11 "checks," Jay? You're confusing me.</p> <p>12 Q. I'll tell you what -- I'll tell you</p> <p>13 what I mean by checks, okay.</p> <p>14 But you were in local government,</p> <p>15 weren't you, sir?</p> <p>16 A. I was correct.</p> <p>17 Q. You were in state government?</p> <p>18 A. Correct.</p> <p>19 Q. You were an elected official?</p> <p>20 A. Correct.</p> <p>21 Q. And when state agencies are spending</p> <p>22 money, they're generally spending taxpayer money,</p> <p>23 correct?</p> <p>24 MR. LAWRENCE: Object to the form of</p> <p>25 the question.</p>	<p style="text-align: right;">Page 53</p> <p>1 - PETER SHAPIRO -</p> <p>2 correct?</p> <p>3 A. In my --</p> <p>4 MR. LAWRENCE: Object to the form of</p> <p>5 the question.</p> <p>6 A. In my experience, it varies</p> <p>7 extensively from jurisdiction to jurisdiction.</p> <p>8 Q. You know that the Washington TSA has</p> <p>9 used an RFP process to hire consultants and</p> <p>10 contractors in the past, correct?</p> <p>11 MR. LAWRENCE: Objection to the form.</p> <p>12 If you know, can you answer.</p> <p>13 A. Generally, yes.</p> <p>14 Q. Was an RFP process followed in</p> <p>15 retaining your services in November and December</p> <p>16 of 2008?</p> <p>17 A. I don't believe so.</p> <p>18 Q. You did respond to an RFP process in</p> <p>19 2010, I believe; is that right?</p> <p>20 A. Yes, I do -- yes, that's correct.</p> <p>21 Q. And has anyone ever told you why an</p> <p>22 RFP process was not used to retain your services</p> <p>23 in November and December of 2008?</p> <p>24 A. It's very frequent that RFP processes</p> <p>25 aren't used when there's some degree of time</p>

<p style="text-align: right;">Page 54</p> <p>1 - PETER SHAPIRO - 2 urgency. 3 Q. So let me ask my question, again. 4 Has anyone ever told you why an RFP 5 process was not used to retain your services in 6 November and December of 2008? 7 A. No. 8 Q. Have you ever asked anyone? 9 A. No. 10 Q. Now, at the time you provided or 11 began to provide your services to the Washington 12 TSA in November/December 2008, the TSA had a 13 financial advisor, correct? 14 A. I had no knowledge of that. 15 Q. When is the first time you found out 16 that the TSA had a financial advisor? 17 A. I don't have any recollection of when 18 I found out that out. 19 Q. But at some point you did find that 20 out, correct? 21 A. Yes. 22 Q. And you found out that that financial 23 advisor was PFM, correct? 24 A. Correct. 25 MR. TAMBE: PFM.</p>	<p style="text-align: right;">Page 56</p> <p>1 - PETER SHAPIRO - 2 they go after the same, you know, client business 3 that we do. 4 Q. I just want to understand that a 5 little bit better. 6 Is it types of clients or types of 7 products or both? 8 A. Principally by type of client. 9 Q. What is that type of client where 10 both you and PFM go after the same type of client 11 business? 12 A. Governmental tends to be the most 13 common. 14 Q. An example of that would be the 15 Washington TSA? 16 A. Yes. 17 Q. I've seen some documents showing that 18 PFM was involved from time to time in preparing 19 bid packages for RFAs. Is it your understanding 20 that they play that role? 21 MR. LAWRENCE: Objection to the form 22 of the question. 23 A. Is it my understanding today, as I 24 sit here? 25 Q. Yes.</p>
<p style="text-align: right;">Page 55</p> <p>1 - PETER SHAPIRO - 2 MR. LAWRENCE: All caps. 3 MR. TAMBE: All caps. 4 Q. That's a name that's familiar to you? 5 A. Very. 6 Q. It's a well-known financial advisor 7 for municipalities, correct? 8 A. Yes. 9 Q. And someone that you've probably 10 worked with on and off over the course of your 11 years? 12 A. Yes. 13 Q. While you were at Citibank you had 14 experience with them, correct? 15 A. I can't recall any experience at 16 Citibank. 17 Q. Okay. And while you've been at Swap 18 Financial Group, you've had experience with them? 19 A. Yes. 20 Q. Okay. Are they a competitor of 21 yours? 22 A. In certain respects. 23 Q. In what respects are they your 24 competitor? 25 A. In certain of our lines of business,</p>	<p style="text-align: right;">Page 57</p> <p>1 - PETER SHAPIRO - 2 A. Yes. 3 Q. Has Swap Financial Group ever 4 prepared bid packages for its clients to obtain an 5 RFA? 6 A. When you say "an RFA," there's -- an 7 RFA is a -- is a -- a term that is sometimes used 8 for a financial product which is really broader 9 than an RFA. You know, RF -- so, yes, the answer 10 would be yes. 11 RFA, the term technically just says 12 reserve fund agreement and that could be defined 13 as anything. I think -- I shouldn't say this. 14 I'd ask to you clarify what you're really asking. 15 Q. I was about to clarify that. That's 16 a helpful answer. 17 So let's look at tobacco 18 securitization reserve funds. Prior to September 19 2008, did the Swap Financial Group ever assist any 20 of its clients in preparing bid packages 21 concerning tobacco reserve fund agreements? 22 A. No. 23 Q. Prior to September 2008, had Swap 24 Financial Group ever assisted any of its clients 25 in tobacco revenue bond securitization?</p>

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1 - PETER SHAPIRO -
2 A. No.
3 Q. When you were at Citigroup, did you
4 work on any tobacco bond securitizations?
5 A. No.
6 Q. And while you were at Citigroup, did
7 you work on any tobacco bond reserve fund
8 agreements?
9 A. No.
10 Q. Have you analyzed any of the
11 valuations done by PFM of this RFA?
12 MR. LAWRENCE: You're talking about
13 for the Washington --
14 Q. The Washington RFA.
15 A. I'd ask you to clarify your question,
16 if I could.
17 Q. Is it the word analyzed that concerns
18 you?
19 A. It's both analyzed and valuation.
20 Q. As you sit here, you're aware that
21 there were instances in and after October of 2008
22 where PFM purported to ascribe some value to the
23 Washington TSA RFA; is that right?
24 MR. LAWRENCE: You're asking him if
25 he's aware of that?

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1 - PETER SHAPIRO -
2 MR. TAMBE: Yes. I could have the
3 question read back if --
4 A. What was the date that you mentioned?
5 Q. Sure.
6 MR. TAMBE: Why don't you read back
7 the question, please.
8 (The question requested was read back
9 by the reporter.)
10 A. I'm -- I know I'm aware of a
11 valuation number that PFM came up with around the
12 time of the bankruptcy. It may have been
13 September of '08.
14 Q. That's a helpful answer.
15 So starting from September 2008 until
16 the present, you're aware of at least one
17 valuation ascribed by PFM to the RFA agreement,
18 right?
19 A. A valuation number, right.
20 Q. A valuation number?
21 A. Yes.
22 Q. Are you aware of more than that --
23 that one valuation number?
24 A. There may have been another one.
25 Q. And so on either of those numbers,

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1 - PETER SHAPIRO -
2 the one you remember and the one --
3 A. Maybe.
4 Q. -- that may have existed, did you
5 study those numbers?
6 A. You're -- I'd ask to you just clarify
7 what talk mean by studying a number.
8 Q. Well, that number is a very different
9 number than the numbers that Swap Financial Group
10 has calculated with respect to the same RFA.
11 Did you --
12 A. When you say "that number," you
13 mentioned a couple of things, what are you
14 referring to?
15 Q. The PFM numbers. Let's just call
16 them PFM numbers. There may be one such number,
17 there may be more than one number. You don't
18 remember, right?
19 A. Right.
20 Q. So the PFM numbers, you remember them
21 being quite different than Swap Financial Group
22 numbers, correct?
23 A. I testified I remembered only one
24 number for certain and --
25 Q. Fine. Let's just say the number.

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1 - PETER SHAPIRO -
2 A. Right.
3 Q. Do you remember the PFM number being
4 different from the Swap Financial Group numbers?
5 A. Yes.
6 Q. Given that difference, did you
7 inquire into how the PFM number was obtained?
8 A. No.
9 Q. Did you ask anyone at the TSA to
10 explain that number to you?
11 A. No.
12 Q. Did you speak with PFM to find out
13 how that number had been derived?
14 A. No.
15 Q. Did you ask any of the staff that
16 worked for you to look into the PFM number and
17 examine it and study it?
18 A. Only to the extent that we did our
19 own value and it differed. In other words, we
20 didn't look at the PFM number, we looked at what
21 we thought the value of the contract was.
22 Q. And once you'd figured out what you
23 thought the value of the contract was, you didn't
24 instruct anyone on your staff to go back and see
25 why it was different than the PFM number?

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1 - PETER SHAPIRO -
2 A. No, we -- no.
3 Q. Do you think PFM just got it wrong?
4 A. Absolutely.
5 Q. How about your number, do you think
6 that's the right number?
7 A. Yes.
8 Q. So --
9 MR. LAWRENCE: I don't know, Jay, if
10 you're switching off of PFM, maybe we could
11 just take a five-minute break.
12 MR. TAMBE: That's fine.
13 THE VIDEOGRAPHER: The time is
14 10:40 a.m. We're going off the record.
15 (Whereupon, there was a brief recess
16 in the proceedings.)
17 THE VIDEOGRAPHER: The time is
18 11:03 a.m. We're back on the record.
19 BY MR. TAMBE:
20 Q. Sir, I'm handing you what's been
21 previously marked as Lehman Exhibit 8. Take a
22 minute to review those pages. Let me know when
23 you're done.
24 My first question to you is going to
25 be, do you recognize that document?

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1 - PETER SHAPIRO -
2 A. Just give me a minute.
3 I'm ready on this.
4 Q. Okay. Do you recognize this
5 document?
6 A. No.
7 Q. If you look at this e-mail chain, on
8 the bottom of the e-mail chain on Page 1 of
9 Exhibit 8, you'll see an e-mail from Rowan
10 Blacker; do you see that?
11 A. Yes.
12 Q. Do you know Rowan Blacker?
13 A. No.
14 Q. You see he purports to be someone
15 from PFM. Do you see that?
16 A. Yeah. I can't tell if it's a he or
17 she.
18 Q. Okay. That person purports to be
19 from PFM and attached to this e-mail chain is a
20 schedule with a bunch of numbers on it, correct?
21 A. Yes.
22 Q. Okay. And it culminates on the last
23 page of the exhibit with a number, 1.2 million
24 roughly.
25 Do you see that?

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1 - PETER SHAPIRO -
2 A. Correct.
3 Q. Is this the PFM number that you had
4 in mind when we were talking about the PFM
5 analysis earlier?
6 A. I don't think so.
7 Q. Okay. What do you remember about the
8 PFM number that you had in your mind when we were
9 speaking of earlier?
10 A. I'm -- I'm recalling a PFM number
11 that actually even had a payment of the opposite
12 direction.
13 Q. So a payment to Lehman?
14 A. Yeah.
15 Q. You can put that one down. I'm
16 handing you a document marked Lehman Exhibit 4.
17 I'm not going to ask you to read the
18 whole document, but is this a document you've seen
19 before today?
20 A. I don't believe so.
21 Q. Okay. I'm going to draw your
22 attention to the third paragraph on Page 1.
23 A. It jumped out at me right way.
24 Q. So the third paragraph of Page 1 of
25 Exhibit 4, there's a sentence about half the way

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1 - PETER SHAPIRO -
2 down that paragraph that says, "We have been told
3 by PFM that a termination amount calculated as of
4 the date of the call would obligate the authority
5 to pay Lehman approximately \$1.2 million."
6 Do you see that?
7 A. Yes.
8 Q. Okay. Have you ever seen any
9 calculations or backup relating to this number?
10 A. To that number?
11 Q. Yeah.
12 A. No.
13 Q. And having seen this memo and having
14 seen that number, does that refresh your
15 recollection that you may have, in fact, seen that
16 number in this document, Exhibit 4?
17 A. I don't believe I saw this document,
18 but I saw a number that was in that area.
19 Q. All right. Now, right before we took
20 our break, I asked you did PFM get it wrong and
21 you said absolutely. How do you know they got it
22 wrong?
23 A. It's -- it's a horribly wrong number.
24 Q. So the number tells you everything
25 you need to know about --

<p style="text-align: right;">Page 66</p> <p>1 - PETER SHAPIRO -</p> <p>2 A. Correct.</p> <p>3 Q. -- them getting it wrong?</p> <p>4 A. Yeah.</p> <p>5 Q. It's fair to say you know nothing</p> <p>6 about their methodology, it's just the number you</p> <p>7 look at it and you say that's just wrong?</p> <p>8 A. Yes.</p> <p>9 Q. Showing you a document that has been</p> <p>10 marked Lehman Exhibit 19 and that's a document</p> <p>11 you're familiar with, correct?</p> <p>12 A. Yes.</p> <p>13 Q. That is the valuation memo prepared</p> <p>14 by Swap Financial Group dated September 10, 2009</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And it has a number on Page 3 at the</p> <p>18 end there's phrase towards the end that says total</p> <p>19 loss off 46,900 and change.</p> <p>20 Do you see that?</p> <p>21 A. Correct.</p> <p>22 Q. And that number is absolutely wrong,</p> <p>23 correct?</p> <p>24 A. Absolutely wrong?</p> <p>25 Q. Yeah.</p>	<p style="text-align: right;">Page 68</p> <p>1 - PETER SHAPIRO -</p> <p>2 Q. I don't want you to say anything that</p> <p>3 happened in mediation.</p> <p>4 I just want you to tell me, did you</p> <p>5 do the valuation?</p> <p>6 MR. LAWRENCE: You can answer that</p> <p>7 question.</p> <p>8 A. Okay. Yes.</p> <p>9 Q. Okay. And what was the number you</p> <p>10 obtained when you did that calculation?</p> <p>11 A. I'd need to refer to a document to</p> <p>12 see that.</p> <p>13 Q. What document would you refer to?</p> <p>14 A. It's -- whatever we had in mediation.</p> <p>15 Because we -- we had a number based upon a 2032</p> <p>16 date, I know.</p> <p>17 Q. Other than correcting for that error</p> <p>18 in Exhibit 19, since the time you prepared this</p> <p>19 document, Exhibit 19, are there any other errors</p> <p>20 that you have discovered in the calculation?</p> <p>21 A. No.</p> <p>22 Q. So as far as you're concerned, once</p> <p>23 you make that correction for the date, everything</p> <p>24 else about this document is accurate, correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 67</p> <p>1 - PETER SHAPIRO -</p> <p>2 A. That number has an error, yes.</p> <p>3 Q. And what's the nature of the error in</p> <p>4 that number?</p> <p>5 A. This number was based -- number was</p> <p>6 based upon a document which we were originally</p> <p>7 furnished that showed the agreement terminating in</p> <p>8 2042.</p> <p>9 Q. Now, your -- Exhibit 19, the Swap</p> <p>10 Financial Group valuation, that's the document</p> <p>11 that was used to support the Proof of Claim,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. That's what was filed in court?</p> <p>15 A. I believe so.</p> <p>16 Q. Are you aware of any corrected Proof</p> <p>17 of Claim having been filed in the Bankruptcy Court</p> <p>18 correcting for the error that you just identified?</p> <p>19 A. I don't -- I don't know if there was.</p> <p>20 The lawyers may have, I don't know.</p> <p>21 Q. Did you prepare an updated</p> <p>22 calculation with the correct date in your view,</p> <p>23 the 2032 date?</p> <p>24 A. Is our discussions which went on in</p> <p>25 mediation part of this discussion today?</p>	<p style="text-align: right;">Page 69</p> <p>1 - PETER SHAPIRO -</p> <p>2 Q. So we'll come back to this a little</p> <p>3 bit later.</p> <p>4 MR. TAMBE: Next exhibit.</p> <p>5 (Whereupon, Shapiro Exhibit 4 was</p> <p>6 marked at this time.)</p> <p>7 Q. I've handed you a one-page document</p> <p>8 marked Shapiro Exhibit 4. Take a moment to review</p> <p>9 it. Let me know when you're done.</p> <p>10 A. Done.</p> <p>11 Q. You're familiar with this document,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. It's an e-mail that you</p> <p>15 received from Bob Cook at the Authority, right?</p> <p>16 A. Correct.</p> <p>17 Q. Although, as I look at this document,</p> <p>18 he's e-mailing you with State Housing Financing</p> <p>19 Commission address, correct?</p> <p>20 A. I think that's just his standard</p> <p>21 address stamp. But yeah, you get the idea of all</p> <p>22 these hats that can be somewhat confusing.</p> <p>23 Q. Sure.</p> <p>24 A. Yeah.</p> <p>25 Q. Now --</p>

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1 - PETER SHAPIRO -
2 A. Remember the State Housing Finance
3 Commission does a lot more work.
4 Q. This e-mail, exhibit -- Shapiro
5 Exhibit 4, is dated Monday, December 8, 2008.
6 Do you see that?
7 A. Correct.
8 Q. Do you have any recollection of
9 having any communications, written or oral, with
10 anyone at the Washington TSA prior to this e-mail?
11 A. This would have been the first
12 contact. If -- if I go back I think previously I
13 testified it might have been in November, but now
14 that I see this, this was the initial contact.
15 Q. Okay. At the time you received this
16 e-mail from Bob Cook, December 8th, had you
17 already been engaged by any other any other Lehman
18 counterparty with respect to a tobacco RFA matter?
19 A. I don't believe so.
20 Q. Again, without going into specifics,
21 subsequent to this point in time you were engaged
22 by one or more other counterparties to a tobacco
23 RFA with Lehman, correct?
24 A. Yes.
25 Q. I think you told us earlier that you

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1 - PETER SHAPIRO -
2 had worked with the Washington State Housing
3 Finance Commission. Did you know Bob Cook prior
4 to December 8th --
5 A. Yes.
6 Q. -- 2008? Okay.
7 But you had not spoken to him about
8 the TSA's relationship with Lehman prior to this
9 date, December 8, 2008; is that correct?
10 A. That's correct.
11 Q. So what did you do when you got this
12 e-mail?
13 A. I believe I responded affirmatively
14 to say I'd be happy to talk as he was requesting.
15 Q. Did you do any kind of valuation
16 analysis between the time you received this e-mail
17 and the time you spoke with Bob Cook and others?
18 A. Between the time of this e-mail and
19 the initial conversation with Bob, certainly not.
20 Q. Do you know when that initial call
21 with Bob Cook and others took place?
22 A. As I sit here, I don't, no.
23 Q. Was it weeks after this point in
24 time, days?
25 A. My guess it would -- I'm not going to

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1 - PETER SHAPIRO -
2 speculate.
3 Q. What do you remember about that first
4 call that you had with Bob Cook and others?
5 A. I don't have specific recollection as
6 we sit here. I'd just be guessing at what was
7 discussed.
8 Q. Okay. So just to be clear, you don't
9 remember any of the things that were discussed in
10 that call?
11 A. No.
12 Q. Do you remember who was on the call?
13 A. No.
14 Q. From your side, was it just you or
15 were there others on the call?
16 A. I don't remember.
17 Q. You'll see Bob Cook says to you in
18 this e-mail, Exhibit 4, "I have attached for your
19 reference a copy of the agreement."
20 Do you see that?
21 A. Yes.
22 Q. Do you remember reviewing the
23 agreement at the time you received this e-mail?
24 A. I'm certain that I would have.
25 Q. You received the e-mail, you have a

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1 - PETER SHAPIRO -
2 conversation and at some point you prepare a
3 contract for services that you're going to render
4 to the Authority in connection with this
5 transaction, correct?
6 A. Okay. Your assumptions may be wrong
7 there.
8 Q. Well, tell me the sequence between
9 receiving this e-mail and the time that you --
10 you, Swap Financial Group, prepared the terms of
11 what services you were going to provide the TSA in
12 connection with this agreement.
13 A. I would -- I'd be speculating because
14 I'm not remembering -- you know, there were many
15 engagements going on at the time. I don't -- I
16 don't know the sequence of events; did they tell
17 us the services, did we suggest services. I would
18 just be speculating, Jay.
19 Q. Do you remember any discussions about
20 PFM on any of the initial calls with the
21 Washington TSA?
22 A. Not at all.
23 Q. Okay. What do you remember telling
24 the TSA, if anything, in those initial calls with
25 the TSA about this contract?

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1 - PETER SHAPIRO -
2 A. They knew of our capabilities and I
3 -- you know, I'm sure I discussed our firm's
4 capabilities.
5 Q. Did you ask the TSA if they
6 terminated the contract?
7 MR. LAWRENCE: I'm sorry, terminated
8 which contract?
9 MR. TAMBE: The RFA.
10 A. Did I ask if they terminated -- I
11 think they were clear that they had not yet
12 terminated.
13 Q. Okay. Did you give any advice to the
14 TSA about terminating the contract?
15 A. Not that I can recall.
16 Q. When -- when do you first recall
17 having valued the termination amount of this
18 contract?
19 A. We -- we would have begun valuation
20 work almost immediately.
21 Q. And was it your sense in the early
22 days of this assignment that Lehman would owe
23 boatloads of money to Washington TSA?
24 A. Yes.
25 MR. LAWRENCE: Object to the form.

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1 - PETER SHAPIRO -
2 Go ahead.
3 A. Yes.
4 Q. What is a boatload of money?
5 A. A boatload of money would be the
6 amount of cash that you could put in a boat.
7 Q. Big boat or small boat?
8 A. It would vary, depending upon your
9 skills as a yachtsman.
10 Q. You wouldn't want to capsize the boat
11 with too much money in it.
12 A. That's correct.
13 Q. So pretty early on, your sense at
14 Swap Financial Group was that there are boatloads
15 of money to be made here; is that right?
16 A. Not to be made, no, that would be a
17 false characterization. This is a question of --
18 of Lehman having defaulted on an agreement and
19 owing money to a public entity for an important
20 public purpose.
21 Q. Let's take a look at the next
22 exhibit.
23 MR. TAMBE: Would you mark this,
24 please.
25 (Whereupon, Shapiro Exhibit 5 was

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1 - PETER SHAPIRO -
2 marked at this time.)
3 Q. So I've placed before you an e-mail
4 exchange marked Shapiro Exhibit 5. That's an
5 e-mail you've seen before today, correct?
6 A. Yes.
7 Q. It starts on the second page of the
8 exhibit with the e-mail we were talking about,
9 Shapiro Exhibit 4, correct?
10 A. Correct.
11 Q. And then it continues.
12 So, after you received the e-mail
13 from Bob Cook on December 8th, looks like the next
14 day you communicated with James Vergara about the
15 e-mail, correct?
16 A. Late that night. You know, it's
17 1:14 a.m.
18 Q. Yeah. Is it safe to say with that
19 e-mail you are instructing one of your staff
20 members to value this transaction?
21 A. I say, "Figure out how we put a value
22 on this."
23 Q. Fine. So, that is an instruction to
24 one of your staff members to value the trade,
25 correct?

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1 - PETER SHAPIRO -
2 MR. LAWRENCE: Objection to the form.
3 A. It's how we put a value on it. It's
4 talking -- is it talking about the value or how we
5 would put a value? It's really saying what's the
6 proper methodology.
7 Q. Is there a reason to believe that
8 Mr. Vergara knew the proper methodology to value
9 this trade?
10 A. Yes.
11 Q. Why did you believe that?
12 A. It was a, you know, a person familiar
13 with these agreements and understood the structure
14 and how you value.
15 Q. How did you know that he was familiar
16 with these agreements?
17 A. We'd spoken with -- we've -- I've
18 spoken about these agreements with him.
19 Q. When?
20 A. In -- during the time of his
21 employment.
22 Q. Okay. And where had he become
23 familiar with these types of agreements?
24 A. He had been at several different
25 shops, but most recently at Lehman.

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1 - PETER SHAPIRO -
2 Q. And was it your understanding that
3 these types of agreements were a central part of
4 his work at Lehman?
5 A. He was working on the swap desk. At
6 all swap desks these types of agreements are a
7 smaller part of the work. Forward purchase
8 agreements which is -- or forward supply
9 agreements, forward payment agreements, whatever
10 you want to call them, are a small subset of
11 swaps, and he would have worked on a small number
12 of them, but they are valued on a swap
13 methodology.
14 Q. All right. So my question was: Was
15 it your understanding that these types of
16 agreements were a principal part of his work at
17 Lehman?
18 MR. LAWRENCE: Object to the form.
19 Q. I take it the answer to that question
20 is no, they weren't?
21 A. Let me ask you what you meant by a
22 "principal part."
23 Q. That he spent a lot of his time
24 working on it.
25 A. Does principal mean to you 50 percent

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1 - PETER SHAPIRO -
2 or greater?
3 Q. I'd say even 20 percent or greater.
4 A. No swap desk would have 20 percent or
5 greater on FPAs.
6 Q. So of all of the FPAs that Lehman
7 worked on --
8 A. Right.
9 Q. -- right, what percentage of those do
10 you think Mr. Vergara worked on?
11 MR. LAWRENCE: Object to the form of
12 the question.
13 A. I've never had that conversation with
14 him.
15 Q. Do you know whether there were other
16 people at the Lehman swap desk when Mr. Vergara
17 was there who had principal responsibility for
18 these types of agreements?
19 A. Yes.
20 Q. And you understood that he was not
21 the person with principal responsibility for these
22 types of agreements, correct?
23 A. He was the number three guy on the
24 desk.
25 Q. And when you say "the number three

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1 - PETER SHAPIRO -
2 guy," third in line in terms of responsibility?
3 A. Right.
4 Q. Other than his work at Lehman, had he
5 told you that he had worked with forward purchase
6 agreements or reserve fund agreements of this type
7 previously?
8 A. I don't recall.
9 Q. And since he'd been at Swap Financial
10 Group prior to December 9, 2008, he'd never worked
11 on or valued an RFA or an FPA, correct?
12 A. I can't say that.
13 Q. Well, can you name one that he did
14 work on?
15 A. I can't -- you know, we -- we handle
16 hundreds and hundreds of transactions so I can't
17 say did he not work on any FPAs. I -- I have no
18 idea.
19 Q. We should ask him?
20 A. Beg --
21 Q. We should ask him?
22 A. You could ask him, yeah.
23 Q. Well, have you asked him recently?
24 A. No.
25 Q. Have you read his deposition in this

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1 - PETER SHAPIRO -
2 case?
3 A. No, I have not.
4 Q. Have you talked to him about his
5 deposition in this case?
6 A. I did run into him at, you know, on
7 an -- in an unrelated setting and he did tell me
8 he was giving a deposition.
9 Q. So sounds from the answer that you
10 ran into him at some point before he gave his
11 deposition in this case; is that right?
12 A. I believe so, yes.
13 Q. Have you talked to him since he's
14 given a deposition in this case?
15 A. Yes.
16 Q. And what did you talk about?
17 A. We talked about an unrelated matter.
18 Q. Okay. Now, you understand that he's
19 been deposed more than once by the Lehman Estate,
20 correct?
21 A. Correct.
22 Q. Have you read either deposition?
23 A. Yes.
24 Q. Which -- so you read the first
25 deposition?

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1 - PETER SHAPIRO -
2 A. Let me just -- I'm -- I'm not a
3 lawyer, one of them was given in a confidential
4 mediation matter, I believe, where we were under
5 confidentiality.
6 Q. But you read that deposition
7 transcript?
8 A. Yes.
9 Q. Okay. Did you speak with Mr. Vergara
10 about his testimony after you read that deposition
11 transcript?
12 A. I don't believe so.
13 Q. All right. Going back to Exhibit 5,
14 e-mail exchange. At the bottom of Page 1 you have
15 the e-mail to Mr. Vergara, right above that
16 there's an e-mail from Nat Singer, Nathaniel
17 Singer to you and Mr. Vergara.
18 Do you see that?
19 A. Yes.
20 Q. You'll see Mr. Singer says in the
21 middle of his e-mail, "Lehman owes them an
22 enormous amount of money."
23 Do you see that?
24 A. Yes.
25 Q. Other than what's in this e-mail, are

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1 - PETER SHAPIRO -
2 you aware of any analysis that Mr. Singer had done
3 to conclude that Lehman owes them an enormous
4 amount of money?
5 A. No.
6 Q. Then you go to the top of the e-mail
7 chain and it's again another one from Mr. Singer
8 to you and Mr. Vergara. Towards the end of his
9 e-mail chain he writes, "Any way you go about it,
10 Lehman will owe the issuer a boatload of money."
11 Do you see that?
12 A. Yes.
13 Q. And again, were you aware of any
14 analysis that he had done, other than what you see
15 in this e-mail, to support that statement that he
16 makes?
17 A. No.
18 Q. Did you ever ask him?
19 A. We would have -- we would have had
20 conversations continually, we always do.
21 Q. And the valuation that you did come
22 up with, that was in the exhibit we looked at
23 earlier, the roughly \$47 million valuation, is
24 that a boatload of money?
25 MR. LAWRENCE: Object to the form.

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1 - PETER SHAPIRO -
2 A. The term "boatload" was Nat's term,
3 not my term.
4 Q. I'm asking you, do you -- do you
5 consider that to be a boatload of money?
6 A. I don't quantify money in terms of
7 the cargo holdings of boats.
8 Q. Would you say that's an enormous
9 amount of money?
10 MR. LAWRENCE: Object to the form.
11 A. No, I would say it's an appropriate
12 amount of money.
13 Q. Now, you'll see that Mr. Singer makes
14 reference in his e-mail to an uncollateralized
15 GIC, G-I-C --
16 A. Yes.
17 Q. -- from ING Bank. Do you see that?
18 A. He just says ING, he doesn't say ING
19 Bank.
20 Q. You understand that to be ING Bank,
21 correct?
22 A. No, ING is an insurance company as
23 well.
24 Q. Okay.
25 A. So it's hard to say what he meant.

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1 - PETER SHAPIRO -
2 Q. Okay. So ING?
3 A. Yes.
4 Q. Do you know whether the Washington
5 TSA ever invested with ING?
6 A. Do I know if they --
7 Q. Ever invested with ING? Did they
8 give money to ING?
9 A. I know they did not.
10 Q. Did you provide any advice with
11 respect to that decision not to give money to ING?
12 A. They -- they discussed it but it was
13 -- they discussed it with me, but it was
14 definitely their decision.
15 Q. Did you provide input into that
16 decision?
17 A. Generally.
18 Q. What input did you provide?
19 A. We discussed whether or not they
20 wanted to take principal risk with regard to this
21 large reserve fund to a -- to a bank. It would --
22 it put them in a very different credit posture.
23 Q. You did advise the TSA on a later
24 date about some investments that they could make
25 with the reserve fund, correct?

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1 - PETER SHAPIRO -
2 A. Correct.
3 MR. TAMBE: Next exhibit.
4 (Whereupon, Shapiro Exhibit 6 was
5 marked at this time.)
6 Q. I've handed you a document that has
7 been marked Shapiro Exhibit 6, and this is a memo
8 that was prepared by you and provided to the
9 Washington TSA in November 2011, correct?
10 A. Yes.
11 Q. And broadly speaking, this is a memo
12 that concerns the reinvestment of the reserve
13 fund, correct?
14 A. Correct.
15 Q. Because following Lehman's default,
16 the Authority had possession of the reserve fund,
17 correct?
18 A. The Authority always had possession
19 of the reserve fund.
20 Q. And they had the ability, following
21 Lehman's default to invest that fund in various
22 ways, correct?
23 A. Yes.
24 Q. And what your memo sets out are some
25 options for investing that fund, correct?

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1 - PETER SHAPIRO -
2 A. Correct.
3 Q. Now, ultimately on Page 3 of this
4 memo, Pages 2 and 3 of the memo, you make a
5 recommendation that's laid out on Pages 2 and 3
6 carry over to 4.
7 Do you see that?
8 A. Yes.
9 Q. Okay. And on Page 3, in the
10 recommendation, you provide some indicative
11 levels.
12 Do you see that?
13 A. Correct.
14 Q. And when you say "indicative levels,"
15 those are returns that as of the date of this memo
16 the Authority could have achieved by investing in
17 those different types of investments, correct?
18 A. Correct.
19 Q. And you recommend sizes for the
20 investments, correct?
21 A. Correct.
22 Q. Okay. Broadly speaking, the rates
23 might vary and your allocation might vary, but
24 were these three different types of investments
25 also available to the Authority in March of 2009?

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1 - PETER SHAPIRO -
2 A. Let me be careful on this.
3 Q. You should be careful with all the
4 questions.
5 A. Thank you.
6 Q. Take your time. Do you have my
7 question in mind? Answer it when you're ready.
8 A. Your question was as of March 2009,
9 right?
10 Q. Yes.
11 A. Market conditions were changing very
12 rapidly during the time in question. By 2011, the
13 date of this memo, there was clearly more
14 stability in the markets than there was in March
15 of 2009.
16 You may recall this, but March of
17 2009 was the absolute low point for the stock
18 market. It was when the S&P 500 and the Dow Jones
19 Industrial Averages hit their cyclical lowest, on
20 March 6, as I recall that date being.
21 So market conditions at that point,
22 as -- and I'm using the stock market as just one
23 indicator -- were severely disrupted. By the end
24 of 2011, there was much more stability in the
25 market, although still -- I would -- you know, I

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1 - PETER SHAPIRO -
2 would characterize even the market in 2011 as a
3 disrupted market.
4 Q. So I want to go back to my question,
5 see if you can answer that.
6 Broadly speaking, the rates might
7 vary and your allocation might vary, but were
8 these three different types of investments also
9 available to the Authority in March of 2009?
10 A. Broadly -- your question is broadly
11 speaking, were they merely available?
12 Q. That's right.
13 A. Right?
14 Q. Yeah.
15 A. Okay. I'm not certain.
16 Q. Did you ever examine that to see if,
17 broadly speaking, the types of investments that
18 you set out in Shapiro Exhibit 6 and recommend to
19 the Authority, whether those types of investments
20 were available to the Authority in March of 2009?
21 A. I don't believe we were charged with
22 that task at that point.
23 Q. So the answer is you have not
24 examined that?
25 A. We -- if we examined it, it would

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1 - PETER SHAPIRO -
2 only have been in another context.
3 Q. That confuses me a little bit. So
4 did you examine that for the Authority?
5 A. No.
6 Q. Did you examine that for other
7 clients?
8 A. It is -- it's possible in that
9 interval, we were doing lots of things.
10 Q. As you sit here -- withdrawn.
11 One other question about your
12 analysis from November 2011, Shapiro Exhibit 6,
13 were the types of investments you were
14 recommending to the Authority, were those
15 permissible investments for the Authority?
16 MR. LAWRENCE: Object to the form of
17 the question.
18 A. I believe so.
19 Q. How would you go about determining
20 what was and was not a permissible investment for
21 the Authority with the reserve fund?
22 A. You're asking me to speculate how we
23 would have done --
24 Q. No --
25 A. -- we would do it.

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1 - PETER SHAPIRO -
2 Q. No, as someone who practices on the
3 public finance base, you're trying to figure out,
4 I have a municipal client with a reserve fund, I'm
5 going to make an investment recommendation, I
6 wonder what the constraints are on this client's
7 ability to invest in the instrument.
8 Where would you look to get the
9 answer to that question?
10 MR. LAWRENCE: Object to the form of
11 the question.
12 A. The indenture.
13 Q. The indenture for the bonds?
14 A. Yes.
15 Q. Do you recall doing that with respect
16 to this memorandum that you prepared?
17 A. Yes.
18 Q. So it's safe to say you would not be
19 recommending investments to the Authority that you
20 knew they could not make?
21 A. Unless we thought there was a
22 mechanism for amending the indenture.
23 Q. You can look at the memo, but I don't
24 think you recommend any amendments to the
25 indenture.

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1 - PETER SHAPIRO -
2 A. Exactly.
3 Q. I don't see credit charges in this
4 memo. Why not?
5 A. They're embedded in the price.
6 Q. Your prices that you have on your
7 indicative levels, let me be clear, on Page 3
8 include whatever credit charges there might be?
9 A. Where they would be applicable.
10 Q. I don't see profit charges either.
11 A. They are all -- those all are
12 embedded.
13 Q. This is all in --
14 A. Yes, of course. We wouldn't put a
15 non-actionable price. We wouldn't put a -- there
16 wouldn't be a mid market value. It would be an
17 all in value, inclusive of the relevant spread
18 components.
19 (Whereupon, Shapiro Exhibit 7 was
20 marked at this time.)
21 THE VIDEOGRAPHER: The time is
22 11:40 a.m., and we're going off the record.
23 (Whereupon, there was a brief recess
24 in the proceedings.)
25 THE VIDEOGRAPHER: The time is

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1 - PETER SHAPIRO -
2 11:56 a.m., December 13th, 2013. This is
3 Tape Number 2 in the video deposition of
4 Peter Shapiro.
5 BY MR. TAMBE:
6 Q. Mr. Shapiro, I'm going to hand you
7 what's been marked as Shapiro Exhibit 9.
8 (Whereupon, Shapiro Exhibit 9, marked
9 off the record, was tendered to the witness
10 for identification.)
11 Q. Do you recognize this as a memo you
12 prepared on or about December 22nd, 2008?
13 A. Yes.
14 Q. And this is a memo you provided to
15 the TSA, setting out the scope services that you'd
16 be providing, correct?
17 A. Yes.
18 Q. Can you tell from this memo whether
19 as of the date of this memo a decision had been
20 made whether or not to terminate the RFA
21 agreement?
22 A. Based upon this document, it -- it
23 appears that there was an intention to terminate.
24 Q. Now, who prepared this memo?
25 A. I -- it would have been me probably

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<p>1 - PETER SHAPIRO - 2 in consultation with James Vergara. 3 Q. Anyone else? 4 A. No. 5 Q. Point 2 of your memo, Strategy -- 6 A. Yes. 7 Q. -- provides that in consultation with 8 counsel you would assist in -- I'm going to quote 9 now -- "development of strategy for making 10 whatever claim against Lehman is warranted, with a 11 goal to maximizing the Authority's potential 12 financial benefit." And it goes on. 13 Do you see that? 14 A. Yes. 15 Q. "The goal of maximizing the 16 Authority's potential financial benefit," whose 17 idea was it that that would be the goal? 18 A. It's common sense. You know, simple 19 English would tell you that that phrase is a 20 modifier to the prior one where it says the claim 21 is warranted, okay. And obviously, in terms of a 22 warranted claim, you want to maximize the benefit; 23 how much you actually get out of what is 24 warranted. 25 Q. Who would decide what's warranted or</p>	<p>1 - PETER SHAPIRO - 2 Q. So it is still your goal at Swap 3 Financial Group to maximize the Authority's 4 financial potential benefit? 5 A. For the warranted claim. 6 Q. Handing you a document that has been 7 marked Shapiro Exhibit 7. 8 MR. TAMBE: It's -- just check the 9 number because I remarked one of them. So 10 it's the final -- 11 MS. SAWYER: 1885. 12 MR. TAMBE: 1885. 13 MR. LAWRENCE: 1885? 14 MR. TAMBE: Yes. 15 MR. LAWRENCE: I do not have that. 16 Thank you. 17 MR. TAMBE: You do not? Okay. All 18 right. 19 Q. Sir, do you recognize Shapiro 20 Exhibit 7 as the response to the TSA's response 21 for proposals dated on or about March 2010? 22 A. Yes, I do. 23 Q. And that document, the Swap Financial 24 Group response, was that a document that you 25 prepared?</p>
Page 95	Page 97
<p>1 - PETER SHAPIRO - 2 not warranted? 3 A. You know, that's -- to me, that's a 4 relatively common sense standard. You're trying 5 to do what is fair, what is right. 6 Q. Since December of 2008, has that goal 7 been modified or changed in any respect? 8 MR. LAWRENCE: Are you talking about 9 with respect to his work or generally or -- 10 MR. TAMBE: Generally. 11 MR. LAWRENCE: Object to the form. 12 A. And I'm going to ask you as a -- as a 13 part-time English teacher, that when you use the 14 passive voice "has it been modified," you know, if 15 you could give me who, what the subject of that 16 sentence should be. 17 Q. Has the goal been modified? 18 A. It's still passive voice. 19 Q. Has anyone modified the goal? 20 A. Has anyone modified the goal? 21 Q. Yes. 22 A. Not that I'm aware of. 23 Q. Have you modified the goal? 24 A. I'm anyone, so I would have to say 25 the same answer would apply.</p>	<p>1 - PETER SHAPIRO - 2 A. I would have supervised its 3 preparation. 4 Q. Okay. Who else would you have worked 5 with to prepare this? 6 A. James Vergara and possibly others, 7 but James Vergara would have had the principal 8 responsibility. You can see on the cover e-mail, 9 Jay, that there are three others cc'd. 10 Q. And so do you believe that the three 11 others cc'd also played a role in preparing this 12 response? 13 A. Normally when we respond to RFPs, 14 everyone has an opportunity to weigh in. Often 15 that's just with regard to proofreading. 16 Q. Now, do you know who else responded 17 to this request for proposals from the TSA? 18 A. As I sit here today, do I know? 19 Q. Yes. 20 A. Yes. 21 Q. Who was that? 22 A. PFM. 23 Q. Anyone else? 24 A. Not that I'm aware of. 25 Q. Have you seen PFM's response to this</p>

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1 - PETER SHAPIRO -
2 request for proposals -- proposal?
3 A. I -- I did see in preparing for the
4 deposition, for the first time, a PowerPoint
5 document that PFM had done.
6 Q. So at the time back in 2010, when
7 this process was underway, the RFP process was
8 underway, you had not seen a copy of PFM's
9 response to --
10 A. No.
11 Q. And between 2010 and sometime
12 recently, you had not seen that response?
13 A. No.
14 Q. Do you understand that that response
15 from PFM that was submitted in 2010 had a
16 valuation in it?
17 A. I don't recall if there was one.
18 Q. All right. In your -- so there's the
19 cover e-mail and as you open up the response,
20 there's a letter on the page that's -- that has a
21 number at the bottom, 1887, SFG 1887.
22 A. Yes.
23 Q. And that was sort of your cover
24 letter on this response, correct?
25 A. Yes.

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1 - PETER SHAPIRO -
2 Q. In the second paragraph of the
3 letter, you refer to "over a thousand terminated
4 transactions."
5 Do you see that?
6 A. Yes.
7 Q. That's what we were talking about
8 earlier, it's a thousand terminated transactions,
9 but about a hundred plus or minus 50
10 counterparties?
11 A. Exactly.
12 Q. Okay. Then in the last sentence of
13 that paragraph you write, "SFG also has direct
14 relevant experience with the Lehman claims'
15 crystallization process, having recently
16 successfully crystalized a claim against Lehman."
17 Do you see that?
18 A. Yes.
19 Q. And now, the claim you were talking
20 about there, was that for a third-party client or
21 was that your own claim?
22 A. Our own claim.
23 Q. What kind of claim did you have
24 against Lehman?
25 A. Lehman had failed to make payments to

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1 - PETER SHAPIRO -
2 us that were required as a result of them
3 intermediating fees on behalf of our clients.
4 Q. And do you recall on what types of
5 transactions those fees had been incurred?
6 A. Interest rate swaps. It's a very
7 common thing that the swap dealer will
8 intermediate the fee.
9 Q. When you talk about the claim --
10 withdraw that.
11 When you refer to having recently
12 successfully crystallized a claim against Lehman,
13 do you mean that you had reached an agreement with
14 Lehman as to what the size of Swap Financial
15 Group's claim would be?
16 A. An agreed-upon amount, yes. That's
17 what crystallization means.
18 Q. I'm going to hand you what's been
19 marked as Shapiro Exhibit 8.
20 (Whereupon, Shapiro Exhibit 8, marked
21 off the record, was tendered to the witness
22 for identification.)
23 MR. LAWRENCE: Is that what the other
24 document is?
25 Q. And do you recognize Shapiro Exhibit

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1 - PETER SHAPIRO -
2 8 as a draft of the Swap Financial Group response
3 to the Washington RFP?
4 A. I do.
5 Q. You'll see that there's what appears
6 to be bullets of a clean and black-lined copy of
7 the RFP response attached to your cover e-mail.
8 Do you see that?
9 A. Yes.
10 Q. And as you say in the cover e-mail,
11 what you're attaching are clean and red-lined
12 versions.
13 Do you see that?
14 A. Yes.
15 Q. So if we go on the red-lined version,
16 which I believe begins on Page labeled 1869 -- are
17 you there?
18 A. Yes.
19 Q. You'll see there's some formatting
20 changes on Pages 1869. When you flip over to the
21 next page, 1870, and that's that cover letter from
22 you to the TSA.
23 Do you see that?
24 A. Yeah.
25 Q. And there's some strike out there.

<p style="text-align: right;">Page 102</p> <p>1 - PETER SHAPIRO - 2 Do you see that? 3 A. Yeah. 4 Q. That's an edit that you made, 5 correct? 6 A. I -- I believe so, simply because of 7 what the cover e-mail says. 8 Q. And part of what you strike out is 9 the statement that says, "Note, I don't want to 10 refer to the fact that our experience with 11 crystallization was with our own claim, but just 12 with a just with 'a recent successfully 13 crystalized claim." 14 Do you see that? 15 A. Correct. 16 Q. Why did you not want the TSA to know 17 that your experience with crystallization was with 18 your own claim? 19 A. It's basically confidentiality in 20 terms of the firm's business. If -- 21 Q. Anything else? 22 A. No. 23 Q. That experience that you had had with 24 crystallization was in a far different context 25 than what the TSA was looking to hire you for,</p>	<p style="text-align: right;">Page 104</p> <p>1 - PETER SHAPIRO - 2 Q. Let's go to the message at the top of 3 the e-mail chain, that's Nat Singer to you, 4 December 10th, 2008. And the statement I refer 5 you to begins with the sentence, "We could try to 6 get MQs..." 7 Do you see that? 8 A. Yes. 9 Q. That's a reference to market 10 quotations, correct? 11 A. Correct. 12 Q. And he goes on to say, "We could try 13 to get MQs, but we may be better off finding out 14 the levels of the last real executions for these 15 agreements." 16 Do you see that? 17 A. Right. 18 Q. Did you ever try to get MQs, market 19 quotations, for the Washington TSA swap? 20 A. Yes. 21 Q. Okay. And what did you do to try to 22 get market quotations for the Washington TSA 23 agreement? 24 A. We contacted every conceivable dealer 25 in this product.</p>
<p style="text-align: right;">Page 103</p> <p>1 - PETER SHAPIRO - 2 correct? 3 You had a claim for fees? 4 A. Yeah. Every claim is distinct, Jay. 5 Q. You would agree with me that the 6 TSA's claim is not a claim for fees? 7 A. Not apples to apples. 8 Q. All right. Let's go back to an 9 exhibit we were looking at before and that's 10 Shapiro Exhibit 5. It's the e-mail exchange 11 beginning with Bob Cook's e-mail and the boatload 12 e-mail. 13 A. You like that one. 14 Q. It's an interesting document. So 15 let's ask about that some more. 16 In the top e-mail from Nathaniel 17 Singer on December 10th, he makes a reference to 18 the levels for the last real executions for these 19 agreements. 20 Do you see that? It's in the top 21 e-mail. 22 A. Yeah, he makes a similar reference in 23 his message two below as well. 24 Q. Okay. Let's deal with both, then. 25 A. Yeah.</p>	<p style="text-align: right;">Page 105</p> <p>1 - PETER SHAPIRO - 2 Q. And how did you contact them? 3 A. By telephone. 4 Q. Okay. And who did that? 5 A. James Vergara and myself and perhaps 6 another staff member may have assisted, but 7 principally James and me. 8 I think we're okay. 9 Q. And did you keep a record of who you 10 contacted and what they said? 11 A. When we get a no response, we don't 12 generally keep a record unless there's a reason we 13 want to say to the client this guy turned us down 14 for X, Y, Z. Typically we don't make a record on 15 no when we have negative responses. 16 Q. And is it safe to say that when Nat 17 Singer wrote this e-mail on December 10, 2008, you 18 hadn't contacted any dealers to try and get market 19 quotations for the Washington agreement, correct? 20 A. That's correct. 21 Q. Now, at that point in time, December 22 10, 2008, Mr. Singer says, "We may be better off 23 finding out the levels of the last real executions 24 for these agreements." 25 Do you know what he meant by "We may</p>

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1 - PETER SHAPIRO -
2 be better off"?
3 A. Yes. He would have meant we'd
4 actually have a data point to be able to work
5 with, rather than the lack of data points than an
6 attempt to do an MQ would give you.
7 Q. Well, had you tried to get any market
8 quotations for these agreements in December 2008?
9 A. At that point, no.
10 Q. And were you aware of any real
11 executions for these agreements having taken place
12 in December of 2008?
13 A. No.
14 Q. How about November of 2008?
15 A. No.
16 Q. How about October of 2008?
17 A. Not that I'm aware of.
18 Q. September of 2008?
19 A. I -- I wouldn't know. It would be --
20 it would be most likely prior to that and Nat
21 would have his pulse on it more than me. I should
22 say have his a finger on the pulse more than me.
23 Q. Going back to the dealers you said
24 you contacted to get market quotations, when would
25 you have done that?

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1 - PETER SHAPIRO -
2 A. For -- for Washington TSA?
3 Q. For Washington, yeah.
4 A. We would have done it at several time
5 intervals.
6 Q. So tell me every point in time when
7 you sought market quotations.
8 A. We would have initially done it when
9 we were first looking to provide a valuation.
10 Q. When's that?
11 A. You'd have to look in the documents
12 to see what the first date is. I think you've got
13 all those. I believe it was January or somewhere
14 in there.
15 Q. January of what year?
16 A. '09. And then we would have
17 refreshed it on the termination day.
18 Q. Any other points in time when you
19 would have done that?
20 A. I don't believe so. We knew we were
21 getting unambiguous turn downs; you know, that is,
22 we're not doing this product, not for -- not for
23 this category of client.
24 Q. Other than roughly January and date
25 of termination, when else would you have sought

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1 - PETER SHAPIRO -
2 market quotations for the Washington trade?
3 A. I don't -- I can't recall any other
4 times.
5 Q. I believe you told me earlier that it
6 was either you or both you and Mr. Vergara who
7 would have made those calls; is that right?
8 A. It would have certainly been the two
9 of us and it may have been another person.
10 Q. Now, you told us that if you had
11 received a no interest indication from the dealers
12 you contacted, you were unlikely to have recorded
13 that fact, correct?
14 A. Right.
15 Q. Would you ever have kept any records
16 of having made the calls, having made a decision
17 to seek market quotations?
18 A. When you say would we have ever or
19 are you saying in this case?
20 Q. In this case?
21 A. We did not.
22 Q. Why not?
23 A. Why not? I'd have to speculate on my
24 state of mind at that time.
25 Q. Well, as you sit here, what's your

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1 - PETER SHAPIRO -
2 best understanding of why you did not make any
3 kind of notation that you were seeking market
4 quotations?
5 A. The market for this product was dead.
6 We were trying to find any glimmer of hope in it,
7 any way of getting anyone to provide a bona fide
8 quote. And we applied a standard on that to make
9 sure it's a bona fide quote. We don't want
10 anybody to do a quote as a quote/unquote favor, an
11 imaginative quote. We want real quotes. And we
12 found no glimmers of hope. So, you know, there
13 was nothing to note down.
14 Q. And when you say you wanted -- I want
15 to make sure I use your words -- you said you want
16 a bona fide quote, you wanted real quotes.
17 Did you provide any one of the
18 dealers that you contacted with a copy of the
19 reserve fund agreement for the Washington TSA?
20 A. I can't recall. We may never have
21 gotten that far. They may have simply the door
22 saying forget about it.
23 Q. But you don't remember one way or the
24 other if you did?
25 A. I can't remember. My -- you know,

<p style="text-align: right;">Page 110</p> <p>1 - PETER SHAPIRO - 2 I'd be speculating. 3 Q. And if you had provided copies of the 4 reserve fund agreement to any of those dealers, 5 you would have records of that, correct? 6 A. Yeah. We would have an e-mail 7 because we would have transmitted by e-mail. 8 Q. So if we found no such e-mails in 9 your production, that suggests, to us at least, 10 that you didn't do that? 11 A. That's a good conclusion. 12 Q. Going back to Exhibit 5. The middle 13 of -- the other Nat Singer e-mail that you 14 referred to before. And he states in that e-mail, 15 "I would assume that a current FPA would be priced 16 well below LIBOR, as the last trades were 17 occurring around L minus 150ish." 18 Do you see that? 19 A. Yes. 20 Q. There were no current FPAs, correct? 21 A. What does "current" mean in your 22 mind? 23 Q. There was no one entering into new 24 FPAs in the fall of 2008? 25 A. I don't believe so. Tobacco FPAs.</p>	<p style="text-align: right;">Page 112</p> <p>1 - PETER SHAPIRO - 2 30(b)(6) deposition at this point. 3 One of the topics you have been 4 identified as the witness on is the April 21, 2009 5 loss calculation memo, okay? 6 Got it? 7 A. I -- I guess so. I don't know the 8 cite, but you're -- I'm trusting that you're 9 citing correctly. 10 Q. I'm sure Paul would tell me if I was 11 not. 12 MR. LAWRENCE: I would. 13 Q. First thing I'd like you to do is 14 describe for me generally the process that 15 resulted in the preparation of this memorandum. 16 A. The process in general? 17 Q. Yeah. 18 A. I think it describes it very well in 19 the memo. You know, it cites the relevant portion 20 of the document as to how value is supposed to be 21 determined, you know, that's basically the process 22 that we go through. And then we went and looked 23 at -- in the absence of market quotations, we 24 looked at where you would come up with a 25 hypothetical replacement transaction, knowing the</p>
<p style="text-align: right;">Page 111</p> <p>1 - PETER SHAPIRO - 2 Q. Tobacco FPAs. 3 A. Yes. 4 Q. And when you see his reference to 5 "last trades were occurring around L minus 6 150ish," you see that as a reference to LIBOR 7 minus 150ish, correct? 8 A. Absolutely. Yes. 9 Q. The 150 is 150 basis points, correct? 10 A. Yes. And the "ish" means 11 approximately. 12 Q. Right. But the last trades that he 13 was referring to, do you know when any of those 14 last trades had occurred? 15 A. No. 16 Q. Handing you a document that has been 17 marked previously as Lehman 15. 18 MR. LAWRENCE: I think we have two 19 copies. 20 Q. And you recognize Lehman 15 as a memo 21 that you and Mr. Vergara prepared in April of 22 2009, correct? 23 A. Correct. 24 Q. So we're going to -- I'm going to ask 25 you some questions that are specific to the</p>	<p style="text-align: right;">Page 113</p> <p>1 - PETER SHAPIRO - 2 elements that would go into pricing were a 3 provider of the agreement available. 4 Q. Okay. Were there drafts of this 5 document? 6 A. Whatever has been produced. 7 Q. Well, are you aware of any drafts 8 that have not been produced? 9 A. Only if there's something that where 10 privilege has been asserted, I don't believe 11 that's the case. I can look through the privilege 12 log, but I don't think so. 13 Q. And do you recall this document, 14 Lehman Exhibit 15, going through review and rounds 15 of edits before it was submitted to the Washington 16 TSA? 17 A. I'm not recalling specifics on it. 18 Q. Have you -- well, what have you done 19 to try and find out how this document was 20 prepared? 21 A. You know, I've read through it and 22 the like, the document -- it speaks for itself. 23 Q. Not only does the document speaks for 24 itself, but I guess what the document doesn't 25 speak for is how it came to be, what steps did it</p>

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1 - PETER SHAPIRO -
2 go through, did it change over time. And that's
3 what I want to find out from you. How --
4 A. There was a, you know, an earlier
5 draft. I -- I'm sorry, this is the earlier draft.
6 There were two valuation documents. You have --
7 you have both of them.
8 Q. Okay. And when you say "there were
9 two valuation documents," there's this one dated
10 April 21, 2009 and there's another one dated
11 September 2009?
12 A. That's correct. So you have both of
13 them, yes.
14 Q. Well, I guess my question is, was
15 this document, when it was initially prepared and
16 reviewed by you, in exactly this format, every
17 word, every number?
18 A. It's -- you know, it's entirely
19 possible that I stood at James' screen or he stood
20 at my screen and we looked it over together. But,
21 you know, we're sitting right next to each other
22 in the same room.
23 Q. Well, lots of things are entirely
24 possible. What actually happened, sir?
25 A. I'm not recalling.

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1 - PETER SHAPIRO -
2 Q. Okay. Do you recall -- well, do you
3 recall anything about who provided the wording,
4 the structure or the context for this memorandum?
5 A. I believe James did, yes.
6 Q. Now, you will see that, as far as I
7 can tell, this document makes no reference to
8 market quotation that I can see anywhere in it, MQ
9 that we referred to before.
10 MR. LAWRENCE: Is that a question or
11 a statement?
12 MR. TAMBE: Well, he can correct me
13 if he thinks it addresses MQ somewhere.
14 MR. LAWRENCE: The question is does
15 it address MQ?
16 MR. TAMBE: Yes.
17 A. It does not. It says on the
18 concerning line, calculation of Loss -- on the
19 quote/unquote concerning line, calculation of Loss
20 with a capital L, because loss is a defined term.
21 Q. You'll see that there's no
22 description or explanation in this memo that
23 market quotations were sought but not obtained,
24 correct?
25 A. Correct.

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1 - PETER SHAPIRO -
2 Q. Now, there's -- the first paragraph
3 of this document cites the -- a provision from the
4 RFA, correct?
5 A. Correct.
6 Q. Were there any other provisions of
7 the RFA that were relevant to this analysis?
8 A. Many.
9 Q. Okay. Which other provisions of the
10 RFA do you believe are relevant to the analysis
11 set forth in Lehman 15?
12 A. The ones that describe all the
13 economics.
14 Q. And generally, what are those?
15 A. Fixed rate on the deal, the mechanism
16 for delivery of the eligible securities, the
17 amortization schedule, all of the -- all of the
18 factors that have to go into doing an economic
19 calculation.
20 Q. Did you receive any advice on how to
21 interpret the RFA for purposes of doing this
22 valuation?
23 A. Are you asking if we received legal
24 advice?
25 Q. Yes. Did any lawyers tell you how

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1 - PETER SHAPIRO -
2 you should interpret certain provisions of the RFA
3 for purposes of doing your calculation?
4 MR. LAWRENCE: You can answer that
5 yes or no.
6 THE WITNESS: That doesn't fall under
7 attorney-client?
8 MR. LAWRENCE: You can answer yes or
9 no.
10 A. Okay. Yes.
11 Q. Which lawyers were they that advised
12 you on that topic?
13 MR. LAWRENCE: If you remember the
14 law firm, that's fine.
15 A. It would have been TSA's lawyers.
16 Q. You say "it would have been," do you
17 actually have a recollection of the TSA's lawyers
18 advising you on this?
19 A. Yes.
20 Q. Who at the TSA's lawyers? Which
21 lawyers?
22 A. The --
23 THE WITNESS: I can go into all of
24 this?
25 MR. LAWRENCE: You can state who they

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1 - PETER SHAPIRO -
2 are. You cannot state anything they said.
3 A. Okay. The principal lawyer was Faith
4 Pettis, P-E-T-T-I-S.
5 Q. You said the principal lawyer was
6 Faith Pettis. Anyone else?
7 A. She's the one I recall. Let me --
8 let me add one other. Stacey Crawshaw-Lewis, I
9 believe I'm saying the name correctly.
10 MR. LAWRENCE: Right. There's a
11 hyphen between Crawshaw and Lewis.
12 Q. Anyone else?
13 A. No.
14 Q. In doing -- go ahead.
15 A. There was one other lawyer, but he
16 may have left already. I believe he had left at
17 that time.
18 Q. Was that Jay Rich?
19 A. Jay Rich, yeah. I -- I can't recall
20 the date when Jay left the firm to join -- to go
21 to Washington.
22 Q. But before Jay left the firm to go to
23 Washington, was he one of the TSA's lawyers that
24 you consulted with on the interpretation of the
25 RFA?

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1 - PETER SHAPIRO -
2 A. He -- I --
3 MR. LAWRENCE: Wait, wait.
4 A. -- I can't recall.
5 MR. LAWRENCE: I want to interpose an
6 objection because you've now added a
7 substantive component to the question. So if
8 it's limited to consulted with, then he can
9 answer that question.
10 MR. TAMBE: Well, without agreement
11 with you, I can -- I can amend my question to
12 say:
13 Q. Did you ever consult with Jay Rich
14 before he left the firm to go to Washington, about
15 the Washington TSA?
16 A. I can't recall. There -- and if I
17 can, there was one -- I'm remembering now one
18 other lawyer, I can't remember the name, but they
19 had a bankruptcy guy on it, too.
20 Q. Okay. There's a provision in the RFA
21 that has the phrase "as if it were Lehman." Are
22 you familiar with that phrase?
23 A. Yes.
24 Q. Did that phrase play any role in your
25 calculation of the termination amount?

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1 - PETER SHAPIRO -
2 A. It played a role in how we read the
3 role of the various parties.
4 Q. Maybe I need a little more
5 explanation on that then.
6 Did that phrase -- as a result of
7 that phrase, did you adjust your calculation in
8 any way?
9 A. No.
10 Q. As a result of that phrase, did you
11 make any determinations as to what the proper
12 deliverable securities would be?
13 THE WITNESS: Could you read that
14 back?
15 (The question requested was read back
16 by the reporter.)
17 A. No.
18 Q. Now, at the bottom of Page 1, over to
19 Page 2, there's the beginnings of the discussion
20 of how the calculation is done.
21 Do you see that?
22 A. Yes.
23 Q. Yes. Just again for the record, I
24 think these questions expand beyond just the April
25 21 memo to both the September memo, as well as the

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1 - PETER SHAPIRO -
2 calculation of the Washington TSA's termination
3 amount. I think those are overlapping topics. So
4 I'm asking you questions that pertain to all of
5 those topics in the 30(b)(6) notice.
6 When it comes to valuing the
7 termination amount, you state, Swap Financial
8 Group states: The appropriate method to use -- is
9 to use a similar interest rate swap in which one
10 payer, LBSF, would pay a fixed rate of 4.484
11 percent, and the other payer, TSA, would pay a
12 floating rate.
13 Do you see that?
14 A. Yes.
15 Q. Are you sure about that?
16 A. Yes.
17 Q. That's the right way to do it?
18 A. Yes.
19 Q. Why?
20 A. That's the base that is used for
21 valuing contracts like this. That's how they're
22 traded. You trade them looking at them first as
23 though they were a swap, then you make adjustments
24 off of the swap.
25 Q. Did you ever consider any other

<p style="text-align: right;">Page 122</p> <p>1 - PETER SHAPIRO -</p> <p>2 methodology to try and value this agreement other</p> <p>3 than treating it as an interest rate swap?</p> <p>4 A. Ever?</p> <p>5 Q. Ever.</p> <p>6 A. Yes.</p> <p>7 Q. What other methodologies did you</p> <p>8 consider?</p> <p>9 A. Cumulative cash flow loss.</p> <p>10 Q. What do you mean by that?</p> <p>11 A. It means how much TSA lost in terms</p> <p>12 of the money it was owed by virtue of the fact</p> <p>13 that it could only reinvest in very low-yielding</p> <p>14 instruments without taking on additional unwanted</p> <p>15 risk.</p> <p>16 Q. And that number that was yielded by</p> <p>17 the other methodology, was that a number that was</p> <p>18 greater or smaller than your \$47 million number?</p> <p>19 A. It would depend on the assumptions</p> <p>20 you'd make for future floating rates. It could be</p> <p>21 significantly larger. It could be smaller, but</p> <p>22 you'd have to make an assumption where future</p> <p>23 floating rates would go.</p> <p>24 Q. I think I lost you somewhere in those</p> <p>25 answers.</p>	<p style="text-align: right;">Page 124</p> <p>1 - PETER SHAPIRO -</p> <p>2 Q. Yeah, 4.484.</p> <p>3 A. It would be 4.484 and zero, Jay.</p> <p>4 It's the difference between 4.484 and short-term</p> <p>5 instruments that they would have invested, I</p> <p>6 believe. So you have to make an assumption about</p> <p>7 where those short-term instruments would be</p> <p>8 invested.</p> <p>9 Q. Then at one point I believe you said</p> <p>10 that if you take those floating rates into</p> <p>11 account, the number could be higher or lower than</p> <p>12 your \$47 million number; is that right?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Could the number ever be</p> <p>15 higher than just the fixed set of payments, just</p> <p>16 4.484 versus zero, could it ever be higher than</p> <p>17 that?</p> <p>18 A. Under a hypothetical negative</p> <p>19 interest rate scenario, it could be higher than</p> <p>20 that.</p> <p>21 Q. How common is a negative interest</p> <p>22 rate scenario?</p> <p>23 A. Very uncommon.</p> <p>24 Q. Now, you said -- you believe that the</p> <p>25 PFM analysis was absolutely wrong. Did they at</p>
<p style="text-align: right;">Page 123</p> <p>1 - PETER SHAPIRO -</p> <p>2 In this document, Lehman Exhibit 15,</p> <p>3 and in the September document, Lehman Exhibit 19,</p> <p>4 you value two payment flows, correct; a fixed</p> <p>5 payment flow and a floating payment flow?</p> <p>6 A. Correct.</p> <p>7 Q. I've then asked you whether you had</p> <p>8 used a methodology other than that type of a swap</p> <p>9 methodology for valuation purposes and I believe</p> <p>10 you said that what you had done was you valued the</p> <p>11 cumulative cash flows lost, correct?</p> <p>12 At least I understood that to mean</p> <p>13 that what you had done is calculated all of the</p> <p>14 fixed rate losses that would be incurred by the</p> <p>15 Authority.</p> <p>16 Where do the floating rates fit into</p> <p>17 that?</p> <p>18 A. To calculate the loss you have to</p> <p>19 compare the fixed rate, which is known, versus the</p> <p>20 floating rate that they have to -- that they're</p> <p>21 stuck with investing in. So you have to make</p> <p>22 assumptions with regard to the floating rate.</p> <p>23 Q. Okay.</p> <p>24 A. It's not the difference between 4</p> <p>25 point -- what's our number, 4.484?</p>	<p style="text-align: right;">Page 125</p> <p>1 - PETER SHAPIRO -</p> <p>2 least begin with an interest rate swap approach?</p> <p>3 A. I have no idea.</p> <p>4 Q. So you remember their number, you</p> <p>5 remember it was absolutely wrong, but you don't</p> <p>6 remember if they even began with a fixed or</p> <p>7 floating analysis?</p> <p>8 A. It's all I saw was their number.</p> <p>9 Q. And you didn't ask to see anything</p> <p>10 else?</p> <p>11 A. No.</p> <p>12 Q. Okay. All right. Let's go back to</p> <p>13 the April document, Lehman 15. If you want, if</p> <p>14 it's easier, you can have the September document</p> <p>15 open as well. I think on these questions the text</p> <p>16 is exactly the same.</p> <p>17 A. I've looked at them side by side.</p> <p>18 Q. So paragraph -- the first full</p> <p>19 paragraph on Page 2, you begin by stating, "The</p> <p>20 use of a LIBOR plus spread analysis with an</p> <p>21 interest rate swap to value agreements like the</p> <p>22 RFA is the broadly accepted market methodology."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. How did you know that was the broadly</p>

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1 - PETER SHAPIRO -
2 accepted market methodology?
3 A. Because of our participation in the
4 market.
5 Q. Okay. And did Mr. Vergara provide
6 any input on that aspect of this memo?
7 A. That was actually his wording.
8 Q. And you accepted that wording,
9 correct?
10 A. Correct.
11 Q. Because you believed him to be
12 experienced in valuing agreements like the RFA,
13 correct?
14 A. No, because of my own independent
15 knowledge. He had it correct.
16 Q. He had it correct?
17 A. Yeah.
18 Q. Then you go on to say, In the case --
19 "In the case of the RFA, the value of the floating
20 leg is of great importance, since the value of the
21 fixed leg is already known." Correct?
22 A. Correct.
23 Q. So, tell me everything that you or
24 Mr. Vergara did to determine what the floating leg
25 should be.

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1 - PETER SHAPIRO -
2 A. When you say everything we did,
3 you're asking a very expansive question. I can,
4 you know, give you the -- you know, what the key
5 steps are.
6 Q. All right. I mean, this is -- you
7 said "the value of the floating leg is of great
8 importance," so I want know what you did to
9 determine the floating leg which is of such great
10 importance.
11 A. The floating leg that we look at has
12 to look at what the deliverable security would be.
13 And that's the key component in determining the
14 floating leg.
15 Q. Okay.
16 A. And in addition to that, you have to
17 put in spreads.
18 Q. Okay. But before you put on the
19 spread, then, as I understand your methodology,
20 the first thing you did was determine what this
21 floating would be without spreads, correct?
22 A. Correct.
23 Q. And then you added on the spreads to
24 see what the impact was?
25 A. Correct.

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1 - PETER SHAPIRO -
2 Q. So let's stick with finding out what
3 that floating leg is.
4 A. You used the word everything, I was
5 just trying to be a little more responsive.
6 Q. That's fair.
7 So, sticking with the floating leg,
8 before you get to the spreads and add-ons, you
9 said it would be based on what the deliverable
10 obligations would be, correct?
11 A. Correct.
12 Q. And prior to default, it was --
13 Lehman had the discretion in deciding what
14 eligible security it would deliver, correct?
15 A. Correct.
16 Q. And you understand now that Lehman
17 had entered into a hedging transaction where it
18 obtained commercial paper that it could deliver
19 into this deal, correct?
20 A. I do understand that, yes, I
21 understand there has been some production on that
22 I don't know for a fact that they've actually did
23 it, I just have seen documents saying that they
24 did.
25 Q. And you understand that even with the

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1 - PETER SHAPIRO -
2 availability of that commercial paper, if Lehman
3 found it advantageous to deliver agencies, it
4 could have delivered agencies, correct?
5 A. It could have delivered agencies,
6 treasuries or commercial -- highest rate
7 commercial paper.
8 Q. As you thought about valuing the
9 termination amount for the TSA agreement, did you
10 consider all of those different eligible
11 securities?
12 A. Yes.
13 Q. How did you consider all of those
14 eligible securities? What did you do to consider
15 them?
16 A. It's the standard in valuing any of
17 these agreements that you consider all of the
18 deliverables, but that you value it based upon the
19 quote/unquote cheapest to deliver.
20 Q. Is it fair to say when you used the
21 phrase "cheapest to deliver," that what you're
22 trying to identify is the highest yielding of the
23 eligible securities?
24 A. Exactly.
25 Q. Now, that requires some number

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1 - PETER SHAPIRO -
2 crunching, right?
3 A. To determine which would be cheapest?
4 Q. Yes.
5 A. No.
6 Q. You just know that sitting at your
7 desk?
8 A. No. You can look at a screen and
9 just see the difference between prices, that's
10 all, you know.
11 Q. So maybe not number crunching, it
12 needs some examination of data?
13 A. Correct.
14 Q. Okay. So what data did you examine
15 to determine what would be the cheapest to deliver
16 securities over the remaining life of this
17 contract?
18 A. We would look -- look at screens of
19 where rates are on treasuries, agencies and
20 commercial paper.
21 Q. You say "we would look," what did you
22 look at?
23 A. We would -- I'd say obviously we
24 looked at screens to compare treasuries, agencies
25 and commercial paper. This is not rocket science.

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1 - PETER SHAPIRO -
2 Q. Then you said "we would." Who is
3 "we"?
4 A. James and myself and anybody else who
5 looked at it.
6 Q. Let's be really specific. Did you
7 sit down at a computer terminal and look at the
8 expected yields on the eligible securities for the
9 remainder of the life of this contract?
10 A. We looked at the yields. You're
11 using the term "expected yields," it's a different
12 thing.
13 Q. All right. I'll change my question,
14 but I want to focus in on what you, Peter Shapiro,
15 did, not what we did.
16 What did you, Peter Shapiro, do?
17 MR. LAWRENCE: So you're leaving the
18 30(b)(6)?
19 MR. TAMBE: No, I'm still in the
20 30(b)(6). I'm trying to find out who did
21 what within the 30(b)(6). It's still fair.
22 Q. So within the 30(b)(6), right, what
23 did you, Peter Shapiro, do to examine what the
24 yields would be on the different eligible
25 securities?

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1 - PETER SHAPIRO -
2 A. I looked at a Bloomberg screen.
3 Q. And what Bloomberg screen did you
4 look at?
5 A. One that would compare yields.
6 Q. Does that screen have a name? Does
7 it have a page number? How do you get to that
8 screen?
9 A. There are multiple screens that show
10 these yields.
11 Q. There's more than one?
12 A. Yeah, there are many data sources for
13 these kinds of yields.
14 Q. One of the eligible securities is
15 commercial paper, correct?
16 A. Correct. Now, remember, not just any
17 commercial paper.
18 Q. Of a certain rate?
19 A. Highest rated, yes.
20 Q. So there is a screen that you look
21 to --
22 A. Correct.
23 Q. -- to find out what the yield was for
24 the highest rated commercial paper?
25 A. Right.

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1 - PETER SHAPIRO -
2 Q. Did you record that anywhere?
3 A. Record it?
4 Q. Yeah. What you saw on that screen?
5 A. It -- it was included in the
6 calculations, you can see that.
7 Q. Well, actually, I can't see that. So
8 I'm asking you: Was it recorded anywhere what you
9 saw on that screen?
10 A. We -- I'm trying to see what you mean
11 by the term "record."
12 Q. Well, as I see what appears in this
13 memo --
14 A. Right.
15 Q. -- with respect to commercial paper,
16 I see a reference to CP spread.
17 A. Right.
18 Q. Which is a constant .666 percent.
19 A. Correct.
20 Q. Right. That's a constant spread you
21 used for the remaining life of this deal.
22 A. Correct.
23 Q. In fact, until 2042 as you did this
24 analysis, right?
25 A. Correct.

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1 - PETER SHAPIRO -
2 Q. Is there a screen, is there data that
3 you pulled off of Bloomberg that supports that
4 part of the memo?
5 A. Yes.
6 Q. And what screen is that?
7 A. That would be the pre-bond
8 interdealer broker screen that showed where you
9 could hedge long-term commercial paper rates
10 versus LIBOR. It's what's called a basis swap
11 screen.
12 Q. Did you take any screen prints off
13 that screen at the time you did this analysis?
14 A. Not that I'm aware of.
15 Q. Now, in addition to you, did
16 Mr. Vergara also do this type of screen analysis
17 or is that you that did the screen analysis?
18 A. He did the screen analysis.
19 Q. In addition to you?
20 A. Yeah, I would have looked at it.
21 Remember, we're sitting close to each other, the
22 Bloomberg is between us.
23 Q. Okay. All right. So that's a screen
24 you look at that you just identified to come up
25 with the constant CP spread that you use?

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1 - PETER SHAPIRO -
2 A. Correct.
3 Q. Right. What screen did you look at
4 to look at the yields on U.S. Government
5 obligations, treasuries?
6 A. The Treasury to LIBOR basis is on the
7 same page.
8 Q. So you looked at that?
9 A. Correct.
10 Q. Again, you didn't make any screen
11 prints of that screen?
12 A. No. Not that I'm aware of.
13 Q. The third category, broadly speaking,
14 of eligible securities are government agency
15 securities, correct?
16 A. Correct.
17 Q. What screen did you look at to
18 determine the yields on government agency
19 securities?
20 A. You cannot hedge forward agencies,
21 there is no agency basis market. So, on that
22 screen you don't have LIBOR versus agencies. So
23 it's -- all you can look at with agencies is spot,
24 where it's currently trading at.
25 Q. Other than looking at Bloomberg, what

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1 - PETER SHAPIRO -
2 else did you do to determine what yields on
3 agencies are expected to be starting with the
4 early termination date into the future?
5 A. We wouldn't look at it that way.
6 You'd look at spot yields on agencies to see if
7 they were ever cheaper to deliver. You don't have
8 a hedgeable market on agencies.
9 Q. But you would agree with me that if
10 agencies were cheaper to deliver, Lehman would
11 have the right to deliver them, right?
12 A. Of course. The treasuries were -- if
13 you had an anomaly, a shutdown in the CP market,
14 you could always deliver those things.
15 Q. So -- all right. The question I
16 asked you previously was what screen did you look
17 at to determine the yield on government agencies
18 securities. You gave me a long answer and said
19 there were spot yields.
20 A. Spot yields, right.
21 Q. What screen did you look at to look
22 at spot yields?
23 A. There are -- there are multiple
24 screens on that. The screen we normally keep open
25 by default is one called USSW and that shows you

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1 - PETER SHAPIRO -
2 where agencies are rated right way. That's always
3 open in our Bloomberg.
4 Q. Did you try to construct a forward
5 agency curve?
6 A. No.
7 Q. Did you discuss constructing a
8 forward agency curve with James Vergara?
9 A. No.
10 Q. How about with Nat Singer?
11 A. No.
12 As -- you're saying as part of a
13 valuation, Jay.
14 Q. As part of a valuation?
15 A. Yeah.
16 Q. Have you ever constructed a forward
17 agency curve for any of your engagements?
18 MR. LAWRENCE: I'm sorry, for any of
19 the securities or just for --
20 MR. TAMBE: For any engagements, has
21 he ever done it.
22 MR. LAWRENCE: For any eligible
23 security?
24 MR. TAMBE: Yes.
25 A. We looked at this only when Lehman

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1 - PETER SHAPIRO -
2 raised this idea in conjunction with this. We see
3 this as a fantasy. No one has ever done it. It's
4 not an accepted market practice. We see it only
5 as Lehman's effort to try not to pay what it owes
6 to Washington.
7 Q. I believe in one of the earlier
8 answers on agencies you also said you looked at
9 the spot rates, but the forward agency market is
10 not hedgeable, or words to that effect.
11 A. Correct.
12 Q. And is that the reason -- is that a
13 reason why you did not use a forward agency curve,
14 because you believe the forward agency market to
15 be not hedgeable?
16 A. Correct.
17 And your question was, is that a
18 reason, right?
19 Q. Is that a reason?
20 A. Yes.
21 Q. There may be other reasons, but that
22 is a reason?
23 A. Yes.
24 Q. All right. Now, I think you've told
25 us how you determined what the commercial paper

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1 - PETER SHAPIRO -
2 spreads were going to be; you based it off of the
3 LIBOR screen?
4 A. Correct. LIBOR screen, basis screen.
5 Q. You based it off of a Bloomberg
6 screen that had this information on it?
7 A. Correct.
8 Q. And just -- just to be clear, what
9 you're doing is adding 666 basis -- no, 66.6 basis
10 points to a LIBOR curve; is that right?
11 A. Correct.
12 Q. What LIBOR curve?
13 A. The -- when we look at the LIBOR
14 curve for the base swap, we have to take into
15 account the amortization in the contract, you
16 know, looking at what it would look like based
17 upon the, you know, the principal schedule, the
18 notional value schedule that's in the contract.
19 You build a base curve off that.
20 Q. Okay. So, it's a curve of what,
21 six-month intervals or is it a three-month LIBOR?
22 What's the curve based on?
23 A. It's a curve that goes all the way
24 out.
25 Q. Okay. So all the way out to, in your

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1 - PETER SHAPIRO -
2 case, to 2042?
3 A. 2042 on the initial valuation, the
4 ones we're talking about.
5 Q. And then you add 66.6 basis points to
6 every step along that curve?
7 A. Right, which works in Lehman's favor.
8 Q. Okay. You believe that curve to be a
9 hedgeable curve?
10 A. That is correct.
11 Q. All right. The next thing that I see
12 in your analysis is charges for municipal tobacco
13 credit. I think that analysis is largely the same
14 in both April and September memos, correct?
15 MR. LAWRENCE: Answer that question
16 then at some point we need to break for
17 lunch. If you're going to a different
18 subject, we can certainly go there. I just
19 don't know how long you're going to be.
20 MR. TAMBE: No, that's fine. We can
21 break for lunch now.
22 THE VIDEOGRAPHER: The time is
23 12:56 p.m. We're going off the record.
24 (Whereupon, a lunch break was taken
25 from 12:56 p.m. to 2:31 p.m.)

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1 - PETER SHAPIRO -
2 THE VIDEOGRAPHER: The time is
3 2:13 p.m. We're back on the record.
4 BY MR. TAMBE:
5 Q. All right. Mr. Shapiro, before we
6 broke for lunch we had been discussing Lehman
7 Exhibit 15, the April 2009 valuation, and we were
8 discussing commercial paper spreads.
9 A. Correct.
10 Q. I believe at one point you testified
11 that adding the 66.6 basis points to the LIBOR
12 curve would work in Lehman's favor, correct?
13 A. Yes.
14 Q. Now, you didn't use that calculation
15 because you were trying to do a favor for Lehman
16 correct?
17 A. No, we're not trying -- you know, as
18 a firm we have a real discipline to try to do
19 things accurately, fairly, correctly, defensively.
20 That's our goal.
21 Q. And so that was your reasoned opinion
22 as to what the right floating curve was before
23 adjustments were made?
24 A. Yes, at that time.
25 Q. You believe that to be a hedgeable

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1 - PETER SHAPIRO -
2 product commercial paper product; is that right?
3 A. It is hedgeable, yes.
4 Q. It is hedgeable. Okay.
5 A. And there is an active basis market.
6 Q. Okay. So it's possible to transact
7 in the commercial paper market that's depicted by
8 that CP curve that you constructed; is that right?
9 A. To state it accurately, it is to --
10 it is possible to transact in the swap market
11 where the floating leg is based on CP.
12 Q. Okay.
13 A. Okay.
14 Q. All right. So now let's come down to
15 the next section in -- and I believe it's largely
16 the same section, there's some differences between
17 April and September, but the section that is
18 titled, Charges for Municipal Tobacco Credit.
19 A. Correct.
20 Q. Do you see that?
21 Now, was this section drafted by
22 Mr. Vergara?
23 A. Yes.
24 Q. If I understand correctly, the first
25 step in determining what the charges for municipa

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1 - PETER SHAPIRO -
2 tobacco credit would be, was you did some
3 examination of what the bond spreads were; is that
4 right?
5 A. Right. You don't have a -- a CDS
6 market, so you're only going to look at bonds.
7 Q. And once you had figured out what
8 that bond spread was, what did you do with that
9 next?
10 A. We looked at that bond spread as a
11 way of replicating a credit spread.
12 Q. How did you replicate the credit
13 spread?
14 A. I think it's explained pretty clearly
15 in the memo. You want me to read the relevant
16 section?
17 Q. No. If you could tell me sort of in
18 lay -- lay terms, what is the process or the
19 thinking by which you take that bond spread and
20 use it to compute a credit spread for the
21 agreement?
22 A. Credit spreads are, you know, an
23 important component of any kind of derivative
24 agreement and figuring out what that credit spread
25 should be in the absence of a matter is a tricky

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1 - PETER SHAPIRO -
2 thing.
3 We know we do not have market here,
4 as we've discussed earlier. So what we're trying
5 to do here is look at what that credit spread
6 should be on what I call hypothetical replication;
7 where it would be.
8 And what we look at here is what is
9 the spread in the market between a more
10 creditworthy bond -- and we didn't pick a super
11 creditworthy bond, we picked an A rated, 30-year,
12 general purpose revenue bond. Right? Okay. We
13 could have picked a AAA rated general obligation
14 bond and the spread would have been bigger. But
15 we picked that as sort of a reasonable benchmark
16 and we spread it to where these bonds were
17 actually trading. So that's -- that's a way to
18 try to replicate.
19 Realistically, on execution, every
20 bank is a little different in terms of how they
21 calculate credit.
22 Q. Are you aware of any bank that ever
23 utilized a bond spread analysis to determine a
24 credit spread on an RFA agreement?
25 A. If the -- we don't see the inner

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1 - PETER SHAPIRO -
2 workings of the sausage factory at any of the
3 banks. We just see the results, and we hear them
4 discuss where they get to. So it's not like we're
5 sitting in on their credit committee meetings,
6 obviously.
7 Q. So let me go back to my question.
8 Are you aware of any bank that ever
9 utilized a bond spread analysis to determine a
10 credit spread on an RFA agreement?
11 A. Why was my response not responsive
12 there?
13 Q. Well, either you're aware of that or
14 you're not.
15 A. I said we're not sitting in on their
16 credit meetings. So I can't say that we have
17 firsthand awareness of what went into it.
18 Q. Did you ask Mr. Singer whether he was
19 ever aware or he had ever used a bond spread
20 analysis in determining the credit spread on an
21 RFA?
22 A. During his time when he worked at
23 Bear, Stearns?
24 Q. Yes.
25 A. Yes.

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1 - PETER SHAPIRO -
2 Q. Did he tell you he'd ever done that?
3 A. Yes.
4 Q. Okay. And what was the maximum such
5 bond spread that he had ever used in determining
6 the credit spread on an RFA?
7 A. We never had that discussion.
8 Q. Is it your understanding, based on
9 your discussions with Mr. Singer, that it was
10 appropriate to use several hundred basis points of
11 spread from the bond market to determine a credit
12 spread for the RFA agreement?
13 A. There was no discussion about whether
14 or not at some point the number of basis points
15 would be appropriate or inappropriate.
16 Q. Now, if I understand what you've done
17 is after determining what the bond spread is,
18 which you determined was a spread of 4.29 percent
19 or 429 basis points, you simply took that 429
20 basis points and added it to the LIBOR or deducted
21 it from the LIBOR plus 66.6 basis point floating
22 curve, correct?
23 A. It goes in the opposite direction,
24 that's correct.
25 Q. So basis point for basis point, you

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1 - PETER SHAPIRO -
2 went from the bond spread to the RFA spread
3 without any adjustments?
4 A. Correct.
5 Q. Again, if I understand what you're
6 doing here correctly, you knew as far back as
7 certainly December of 2008 that there was no
8 active market for RFAs, correct?
9 A. Tobacco RFAs.
10 Q. Tobacco RFAs.
11 A. Yes.
12 Q. No one was entering into these
13 agreements?
14 A. Right.
15 Q. And so what you're doing in this part
16 of your analysis is coming up with a credit charge
17 that some hypothetical dealer might impose if it
18 were to enter into some transaction with the
19 Washington TSA; is that right?
20 A. Yes, as soon as you don't have a
21 market you have to go with hypotheticals.
22 Q. And if such a hypothetical
23 transaction had taken place, the credit charge
24 that you've computed, 429 basis points, that would
25 be a charge that would go to the hypothetical

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1 - PETER SHAPIRO -
2 dealer that had entered into the transaction,
3 correct?
4 A. No. You can't really look at it that
5 way. You have to look at it all in, in terms of
6 where the -- you know, where the pricing would be.
7 All of the components, when they come
8 together, you know, we're saying 66 up, you know,
9 429 down and 25 down, you look at them -- you
10 know, a dealer would look at these as fungible
11 components, they don't actually get that money,
12 Jay.
13 Q. Well, they offer -- well, let me
14 ask --
15 A. They'd offer a much lower yield,
16 that's all.
17 Q. Okay. Do they -- the Washington TSA
18 doesn't get that money either, correct?
19 A. There's not money, those are basis
20 points in the deal. You know, that's how much
21 somebody would be hypothetically willing to pay if
22 we were replicating the deal. They wouldn't be
23 willing to pay 4.484. They'd be willing to pay
24 what we're saying is here is 387.4 basis points
25 less.

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1 - PETER SHAPIRO -
2 Q. Is it the case that under your
3 calculation, if you actually constructed a
4 transaction that had these features, that the
5 Tobacco Finance Authority would be receiving
6 payments both under the fixed leg and the floating
7 leg?
8 A. It doesn't work that way. You just
9 receive a fixed rate.
10 Q. Well, they would effectively be
11 getting more money under your calculations than
12 they would have received if all they ever got was
13 the fixed leg?
14 A. No, that's bad math.
15 Q. Well, it's your math, sir.
16 A. No, that's your math. You just made
17 that statement. Our math would be saying it's
18 3.874 below 4.484. Do that math. 4.484 minus 3.7
19 -- 3.874, still leaves you with positive yield.
20 Q. So what you're saying is it's 3.874
21 absolute?
22 A. No, that's the deduction.
23 Q. From what?
24 A. 4.484.
25 Q. You're sure it's not 3.874 deducted

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1 - PETER SHAPIRO -
2 from the LIBOR curve?
3 A. No.
4 Q. You're sure about that?
5 A. Yes.
6 Q. Positive?
7 A. Well, is there -- you -- you sound
8 like you're very skeptical here.
9 Q. I'm rather skeptical, yeah, because
10 what you started off was the CP spread, right?
11 It's spread to LIBOR.
12 A. Correct. That goes positive.
13 Q. Okay. Then you have a negative?
14 A. Other one goes negative.
15 Q. What happens to LIBOR in all of this?
16 Isn't this still a deduction from LIBOR?
17 A. It's -- you know, you're looking at
18 trying to deduct it off the floating leg. If you
19 did that, you'd get to negative interest rates all
20 the time because the floating leg on LIBOR at this
21 period of time is extraordinarily low.
22 Q. I submit to you, sir, the math you've
23 done gets you a negative --
24 MR. LAWRENCE: Excuse me, excuse me.
25 He was still answering his question -- your

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1 - PETER SHAPIRO -
2 question. So wait until he finishes his
3 answer, then ask your question.
4 A. You know, by your theory of how to
5 read this, if LIBOR is at 25 basis point, you'd
6 have to cap out the spread at 25 basis point,
7 regardless of how crappy the credit was -- excuse
8 me, how bad the credit was, how much the profit
9 margin is. It doesn't work that way.
10 It's -- what these -- the way these
11 work these are deductions off the fixed rate that
12 would be offered.
13 Q. Okay. And just to be clear, that's
14 what you believe your calculation show and your
15 mathematics show the deduction off the fixed rate?
16 A. That's what they do show.
17 Q. And so if I understand what you've
18 done then, what you're telling me you've done,
19 you've taken the fixed leg which is 4.484, that's
20 money to be received by the TSA, correct?
21 A. They were legally supposed to
22 receive.
23 Q. Less on each payment date a payment
24 calculated on the basis of 3.874 going the other
25 way; is that right?

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1 - PETER SHAPIRO -
2 A. What we're saying is that would be
3 what a replacement transaction would provide,
4 would be that much lower a yield.
5 Q. And you believe that is what -- if
6 you look at those two cash flows, that's what
7 yields the \$47 million number --
8 A. Correct.
9 Q. Okay. Now, let's go back to some of
10 the basics of credit charges.
11 If a dealer believed that it would
12 never be exposed to credit risk, default risk by
13 the TSA, would it be appropriate for that dealer
14 to charge a credit charge?
15 A. If they were totally insulated from
16 any type of default risk, I'm not sure if you can
17 ever construct a world where that exists.
18 Q. Well, let me ask the question a
19 little differently, then.
20 Did you or Mr. Vergara look at
21 scenarios as to whether a dealer entering into
22 this hypothetical replacement transaction, would
23 be exposed to the credit risk of the TSA?
24 THE WITNESS: Could you read that
25 back, please?

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1 - PETER SHAPIRO -
2 (Requested question was read back by
3 the reporter.)
4 A. Yes. This looks at it as though they
5 were exposed to the credit risk of the TSA.
6 Q. Okay. So did you look at different
7 points in time how much money the TSA would owe
8 the dealer in this hypothetical model that you'd
9 constructed?
10 A. Look at how much they would owe?
11 That's not really the right way to think about it.
12 Q. That's not the way you thought about
13 it?
14 A. No, that's not the right way to think
15 about it.
16 Q. If at every payment date starting in
17 March of 2009 until the end of the contract, your
18 calculation showed you that would it would always
19 be the dealer making a payment to the TSA, is it
20 your view that a credit charge is still
21 appropriate?
22 A. When you're saying at each of those
23 calculation dates, are you meaning for the ongoing
24 payments or for a termination payment?
25 Q. Ongoing payments. You're -- you're

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1 - PETER SHAPIRO -
2 calculating what a hypothetical transaction
3 beginning in March 2009 and stretching until 2042
4 would look like, correct? How it would be priced?
5 A. Right.
6 Q. Okay. That hypothetical transaction
7 has future cash flows that you're discounting to
8 present value, correct?
9 A. Right.
10 Q. Okay. For each of those payments in
11 a hypothetical future cash flows, did you do a
12 calculations to see if it was the dealer paying
13 the TSA or the TSA paying the dealer?
14 A. You -- you don't look at credit
15 spread that way.
16 Q. I know. I'm asking you a very
17 specific question: Did you do that?
18 A. Would we look at it the way that
19 somebody would not look at credit spread? No.
20 Q. No. Go back to my question --
21 A. That's not -- that's not how you look
22 at credit spread.
23 Q. Let me go back to the question. My
24 question was simply: Did you look to see if on
25 every future payment date it was the TSA paying

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1 - PETER SHAPIRO -
2 this hypothetical dealer or the hypothetical
3 dealer paying the TSA? Did you look at that
4 question?
5 A. No, because that would be an improper
6 way to look at credit spread.
7 Q. I'm not asking about credit spread.
8 I'm asking did you look at that fact;
9 who is paying whom on each of the future dates?
10 A. No. That's totally a hypothetical.
11 Q. Well, your entire calculation is
12 hypothetical, right?
13 A. Yeah. But that -- but when you're
14 looking at future interest rates, you have to look
15 at the reasonable band of future interest rates.
16 You're not going to look at we expect we'll always
17 pay less. That would be an absurd way to look at
18 it, Jay.
19 Q. Well, you look -- you did make some
20 assumptions about future interest rates, correct?
21 You used commercial paper spreads and
22 you assumed that those commercial paper spreads
23 would be a constant 66.6 basis points in excess of
24 LIBOR, right?
25 A. You can hedge that, that you can lay

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1 - PETER SHAPIRO -
2 off on a third party. You can't lay off the
3 credit risk.
4 Q. Again, I'm not asking you about
5 credit risk. Okay. I'm asking about what
6 calculations did you on the different cash flows.
7 You did calculate what the interest
8 rates would be for the floating leg, correct?
9 That's what -- that's what the commercial paper
10 spread calculation was all about, wasn't it, sir?
11 A. No, the commercial paper spread
12 calculates a steady spread to LIBOR. It's not
13 calculating each floating rate. It's just saying
14 what the spread to LIBOR would be.
15 Q. Now you've lost me because we got
16 into this whole discussion by you saying the only
17 way to value this contract, the proper way to
18 value this contract is treat it as an interest
19 rate swap, correct?
20 A. Correct.
21 Q. In fact, although you may have done
22 -- so your -- your view is while there may be
23 other ways to value it, you think the right way to
24 do it is the way you've done it, correct?
25 A. I don't think I said "the right way

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1 - PETER SHAPIRO -
2 to do it," but the market accepted way to value
3 these contracts is based upon swaps. If you're
4 doing it based upon swaps, this is how you do it.
5 Q. Well, I've got to go back over that
6 because it says right here in your memo at the top
7 of Page 2, "To value the cash flows under the RFA,
8 the appropriate method is to use a similar
9 interest rate swap in which one payer would pay a
10 fixed rate and the other payer would pay a
11 floating rate."
12 Do you see that?
13 A. Yes.
14 Q. That's what you said was the
15 appropriate method?
16 A. Yes, we believe that's the
17 appropriate way. It's not the only way.
18 Q. But of all the ways that might be out
19 there, this is the one you picked, right?
20 A. Yes.
21 Q. This is the one you called the
22 appropriate way?
23 A. Correct.
24 Q. You're sure about that, right? No
25 wobbling on that one?

<p style="text-align: right;">Page 158</p> <p>1 - PETER SHAPIRO -</p> <p>2 A. I'm sitting here as solid as a rock,</p> <p>3 no wobble.</p> <p>4 Q. All right. So after you said that,</p> <p>5 the next thing you said, "The use of a LIBOR plus</p> <p>6 spread analysis with an interest rate swap to</p> <p>7 value agreements like the RFA is the broadly</p> <p>8 accepted market methodology."</p> <p>9 Correct?</p> <p>10 A. Correct.</p> <p>11 Q. So you have two rates that you're</p> <p>12 comparing when you do that type of interest rate</p> <p>13 swap analysis, right?</p> <p>14 A. Right.</p> <p>15 Q. One is the fixed interest rate and</p> <p>16 the other is the floating rate?</p> <p>17 A. Right.</p> <p>18 Q. The floating rate is depicted by, in</p> <p>19 your case, the spread to LIBOR, correct?</p> <p>20 A. No, the floating rate is LIBOR plus</p> <p>21 or minus the spread. The spread itself is not the</p> <p>22 floating rate.</p> <p>23 Q. Okay. So LIBOR plus your 66.6 basis</p> <p>24 points is the floating rate that you determined</p> <p>25 would be the appropriate floating rate here,</p>	<p style="text-align: right;">Page 160</p> <p>1 - PETER SHAPIRO -</p> <p>2 A. That's correct.</p> <p>3 You know, the -- the simplest way to</p> <p>4 look at it is if you looked at one of the exhibits</p> <p>5 you showed me before how PFM did it, because they</p> <p>6 showed the spreadsheet column by column, you can</p> <p>7 see it's done that way.</p> <p>8 Q. But they were absolutely wrong.</p> <p>9 A. They had the math wrong, yes.</p> <p>10 Q. Okay. They had the right approach,</p> <p>11 but they had the wrong math?</p> <p>12 A. Absolutely.</p> <p>13 Q. Let's go back to the floating rate.</p> <p>14 The thing that you said was</p> <p>15 hedgeable, the thing that you said was your</p> <p>16 attempt to identify the cheapest deliverable</p> <p>17 eligible securities was the LIBOR plus spread</p> <p>18 which you referred to as the commercial paper</p> <p>19 spread, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And what was hedgeable there</p> <p>22 you said was you could hedge it to the LIBOR swap</p> <p>23 curve, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And the LIBOR swap curve, that's a</p>
<p style="text-align: right;">Page 159</p> <p>1 - PETER SHAPIRO -</p> <p>2 correct?</p> <p>3 A. It's -- you know, we're looking at it</p> <p>4 in terms of all of the spread components. So when</p> <p>5 I -- when we look at it, we say, Here is a LIBOR</p> <p>6 swap. All right? We look at the value of that</p> <p>7 swap and then we say we make the following</p> <p>8 adjustments; the adjustment for deliverable</p> <p>9 security, the adjustment for the credit spread and</p> <p>10 the adjustment for the profit margin.</p> <p>11 Q. Okay.</p> <p>12 A. And you know, if you look at those,</p> <p>13 as I said, those back into as on the March 25th</p> <p>14 number, 3.874. And that you deduct off, you know,</p> <p>15 you compare it to the float -- to the fixed rate</p> <p>16 on the -- on the contract and present value that</p> <p>17 and that's how you'd get, you know, what the --</p> <p>18 the loss.</p> <p>19 Q. Okay. So what you're telling me is</p> <p>20 that for each of the future payment dates, the</p> <p>21 math that you did was 4.484 minus 3.874 times the</p> <p>22 principal and then you present value that?</p> <p>23 A. I'm simplifying it, but that's how</p> <p>24 the models work.</p> <p>25 Q. That's how the models work?</p>	<p style="text-align: right;">Page 161</p> <p>1 - PETER SHAPIRO -</p> <p>2 set of products or contracts that you can actually</p> <p>3 enter into to hedge exposure, correct?</p> <p>4 A. Correct.</p> <p>5 Q. That LIBOR swap curve doesn't have</p> <p>6 charges for credit, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And that LIBOR swap curve doesn't</p> <p>9 have any charges for profit components, correct?</p> <p>10 A. Correct.</p> <p>11 Q. So, using that hedgeable LIBOR swap</p> <p>12 curve as your floating rate, did you do a</p> <p>13 calculation to determine who would be paying whom</p> <p>14 on each of the subsequent payment dates in your</p> <p>15 hypothetical transaction?</p> <p>16 A. No, and you don't need to.</p> <p>17 Q. Okay. If you had done that analysis,</p> <p>18 and I know you didn't, and it showed that on every</p> <p>19 subsequent payment period, if you did that table</p> <p>20 the way PFM did as to what the payments would be</p> <p>21 six months out, 12 months out, 18 months out, 24</p> <p>22 months out, on every single one of those payment</p> <p>23 periods, it was a payment being made to the TSA,</p> <p>24 not by the TSA, is it your view that it's still</p> <p>25 appropriate to charge any credit charge?</p>

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1 - PETER SHAPIRO -
2 A. You're clearly misunderstanding how
3 this works. That -- the table that PFM has
4 doesn't talk about future floating rates, that
5 what I'm talking about is always comparing the
6 fixed rates on that.
7 So you're clearly missing this, Jay.
8 I wish I could explain this better.
9 Q. I think you've done a good job of
10 explaining it.
11 A. Thank you.
12 Q. So let's do the following: In your
13 hypothetical transaction at six-month intervals,
14 there's an obligation owed to the TSA to pay 4.484
15 percent; is that right?
16 A. On the fixed leg.
17 Q. On the fixed leg. So you could come
18 up with a schedule of however many payments there
19 are --
20 A. That's --
21 Q. -- each those would be identical.
22 You could also come up with a similar
23 column of figures for what the floating leg would
24 be on each of those dates, correct?
25 A. No.

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1 - PETER SHAPIRO -
2 Q. Okay. Can it be done?
3 A. They're floating. You cannot know
4 with certainty where they're going to be, that's
5 the essence of what floating means.
6 Q. Mr. Shapiro, when you do a valuation
7 as of an early termination date, are you not using
8 market data as to what the market expects future
9 rates to be?
10 A. Yes.
11 Q. Could you not prepare a column of
12 those figures?
13 A. Yes.
14 Q. Did you do that?
15 A. No, you don't need to do that and
16 this has -- you know, well, I'll let you finish,
17 I'm sorry.
18 Q. I understand that it's your view that
19 you don't need to do it. But it can be done,
20 correct?
21 A. Yes.
22 Q. Using your methodology, your LIBOR
23 plus commercial paper spread analysis, one could
24 prepare such a column of figures, correct?
25 A. Correct.

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1 - PETER SHAPIRO -
2 Q. And those wouldn't all be the same,
3 they would change based on where the LIBOR curve
4 was expected to be, correct?
5 A. Correct.
6 Q. And therefore, if you prepared that
7 column of figures, you would have a floating leg
8 payment and you'd have a fixed leg payment?
9 A. Correct.
10 Q. Okay. You could compare those two
11 numbers and figure out for each subsequent payment
12 period whether it's the TSA that's expected to
13 make a payment or the hypothetical dealer,
14 correct?
15 A. Correct.
16 Q. And if you had done all of those
17 things and you saw that on every single one of
18 those payment dates the payments were being made
19 to the TSA, not by the TSA, is it your view that a
20 credit charge would still be appropriate?
21 A. Absolutely.
22 Q. And what exactly is the credit
23 exposure that you're hypothetical dealer faces in
24 this situation?
25 A. The credit exposure looks not at what

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1 - PETER SHAPIRO -
2 the forward curve says which is where you've been
3 going with these questions. It looks at what the
4 risk is. The risk is that the forward curve is
5 wrong.
6 And can I tell you, the forward curve
7 is mostly wrong. When you look at what forward
8 rate -- the forward curve predicts as rates versus
9 what is actually experienced as rates,
10 historically, again and again, you see the forward
11 curve misses.
12 A bank has to protect itself from
13 credit risk, not based upon a theory that the
14 forward curve is going to be correct, but based
15 upon the probability that it's going to be wrong.
16 Q. So what -- what calculations did you
17 do to determine that the forward curve was
18 probably going to be wrong?
19 A. You don't need to do that
20 calculation. You have that calculation built into
21 instruments like bonds.
22 Q. Is it your testimony, sir, that the
23 bond spreads that you used are predicting that the
24 forward curve for interest rates is going to be
25 wrong, that's what those bond spreads are based

<p style="text-align: right;">Page 166</p> <p>1 - PETER SHAPIRO - 2 on? 3 A. No. 4 Q. Okay. They're based on the 5 probability that a tobacco securitization agency 6 is not going to be able to pay principal and 7 interest on the bonds as it comes due, correct? 8 A. They're based upon the credit risk 9 that the bond holder feels that they're taking on. 10 Q. Right. In fact, those spreads have 11 nothing to do with interest rate movements, 12 correct? 13 A. It's a theoretical question that I'd 14 have to mull on. 15 Q. It's a hypothetical construct that 16 we're working with. 17 A. Yeah. You know, so I'd have to think 18 about that. You know, how sensitive bond credit 19 spreads are and interest rate movements, they 20 probably are, but I'd have to think about that. 21 Q. But that's not something you had 22 given thought to when you used the bond spreads as 23 the basis for your credit adjustment in the RFA? 24 A. Right. 25 Q. At the bottom of Page 2 over on to</p>	<p style="text-align: right;">Page 168</p> <p>1 - PETER SHAPIRO - 2 profit component you'd use there, correct? 3 A. No. 4 Q. Similarly, if the TSA were doing 5 replacement investments in six-month investments, 6 you wouldn't be including the credit charges that 7 you've calculated in the section right before 8 that, correct? 9 A. You're correct. 10 Q. All right. We turn to Page 3 of 11 Lehman Exhibit 15. 12 A. Lehman Exhibit 15, yes. 13 Q. That's the April 2009 -- 14 A. Yeah, the one we're still in. 15 Q. Okay. And There you have a 16 calculation of Loss, capital L, Loss. And we go 17 to table with two different dates, October 2nd and 18 March 25th, correct? 19 Why did you pick those two dates? 20 A. March 25th was the designated 21 termination date. Isn't that correct? 22 Q. It was. How about October 2nd? 23 A. I believe we were requested to 24 provide a calculation on that date as well. I'm 25 not recalling what the rationale was for that</p>
<p style="text-align: right;">Page 167</p> <p>1 - PETER SHAPIRO - 2 Page 3, the section -- again this is Exhibit -- 3 Lehman Exhibit 15, you have a section titled 4 Profit Component. 5 Do you see that? 6 A. Yes. 7 Q. And I believe that's the same in both 8 the April and September memos. 9 A. You are correct. 10 Q. And you state that you have a profit 11 component because your analysis takes into account 12 the profit of spread component that would be 13 included in any replacement investment if TSA were 14 to replace the economic bargain afforded to it by 15 the RFA. 16 A. Yes. 17 Q. The profit component you're referring 18 to here is the profit component that would be 19 included not in any replacement investment, but in 20 a replacement RFA transaction similar to the one 21 that was terminated, correct? 22 A. Correct. 23 Q. For example, if the TSA were doing a 24 replacement investment in six-month securities, 25 every six months, you're not saying this is the</p>	<p style="text-align: right;">Page 169</p> <p>1 - PETER SHAPIRO - 2 date. You know, I could refer to documents and 3 figure it out, but I'm not -- as I sit here, I'm 4 not recalling. 5 Q. Just again to -- we were talking 6 about the March 25th numbers, let's just talk a 7 little bit about the October 2 numbers. 8 So, as of -- so you did this 9 calculation sometime in April of 2009, correct? 10 A. Correct. 11 Q. And you looked back and you 12 determined that as of October 2nd, the appropriate 13 CP spread that you would use for your hypothetical 14 transaction was 1.436 percent, correct? 15 A. Correct. 16 Q. And that's what you add to the LIBOR 17 curve to determine the floating leg, correct? 18 A. You could look at it that way, yes. 19 Q. Well, that's kind of what you did, 20 right? 21 A. You know, we look at it all together, 22 as I said before, to get a total spread. You can 23 see it on the right side of the column. 24 Q. Well, you said that a couple of 25 times. Do you start with 1.37 percent and work</p>

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1 - PETER SHAPIRO -
2 backwards or do you start --
3 A. No.
4 Q. -- 1.436 and build up?
5 A. Yeah. No, you start with 1.436 as a
6 plus, 2.557 as a minus and 25 as a minus and you
7 get to 1.371. But, you know, you're going back
8 and saying you're adding to the floating. You can
9 could add to the floating or subtract from the
10 fixed.
11 You know, as a matter of reality, we
12 add them together and make the adjustment on the
13 fixed side.
14 Q. So you start with 1.436, you make
15 your credit adjustment, you make your profit
16 adjustment, you come up with a number 1.371.
17 That's within parenthesis, right? So that's a
18 negative number, right?
19 A. Yes.
20 Q. And what do you do next in your
21 calculation?
22 A. Next we -- we, you know, we're using
23 these within modeling systems, so that we can
24 produce, you know, whatever a number is. So that
25 James would have run the model that would show

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1 - PETER SHAPIRO -
2 this. You know, would take that -- would take
3 that model and translate it into dollars.
4 Q. Okay. And just again, in layman's
5 terms because we don't have the model in the room,
6 what is that the model does? It has 1.371 percent
7 representing the floating leg in some way, it has
8 4.484 representing the fixed leg --
9 A. No, no, no.
10 Q. What does it do?
11 A. It's looking at what the cost of that
12 1.371 percent is on this amortization schedule
13 present valued.
14 In other words, if you think about
15 it, what this is really saying is at the contract
16 fixed rate is 4.484, in the current market based
17 upon these adjustments, the substitute, the
18 hypothetical replacement would be 1.371 percent
19 lower. So you have to present value that
20 differential.
21 Q. Okay. And under that calculation,
22 the TSA's loss you believe is calculated by taking
23 4.484 minus 1.371, times the principal for each
24 payment date present valued; is that right?
25 A. You didn't quite get it right. It

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1 - PETER SHAPIRO -
2 really is -- it's really the 1.371 differential.
3 You can look at it by saying it's the
4 difference between a contract at 4.484 with this
5 amortization schedule and a contract with a fixed
6 rate that is 1.371 percent lower than 4.484. Or
7 you could simply say, let's just take the
8 amortization, multiply it times that differential
9 of 1.371, and you're going to get the same result.
10 Does that work?
11 Q. I understand your math.
12 A. Okay.
13 Q. Below the -- the numbers we were just
14 looking at, again this is Exhibit 15, last page,
15 the second last paragraph which begins, "Using the
16 spreads to LIBOR..."
17 Do you see that?
18 A. Right.
19 Q. The second sentence of that paragraph
20 reads: "Please note that a significant part of
21 this difference is attributable to the different
22 rate environments of each valuation date, in
23 addition to the different spread assumptions."
24 Do you see that?
25 A. Correct.

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1 - PETER SHAPIRO -
2 Q. What does that mean?
3 A. Interest rates between the two dates
4 had changed dramatically. You can see that in the
5 next sentence.
6 Do you see where I'm pointing to?
7 Q. Yes.
8 A. Okay. As well as spreads had
9 changed. And you can --
10 Q. And on what spreads are you referring
11 to when you say "spreads had changed"?
12 A. Look at the table above, you can see
13 we talk about three spread components; CP spread,
14 credit spread and profit. Two of three of those
15 had changed.
16 Q. As part of the work that you've done
17 for the Washington TSA, have you made any efforts,
18 other than your discussions with Nat Singer, to go
19 back and determine what the credit charges were
20 that were actually imposed by dealers on tobacco
21 securitization agencies in connection with RFAs?
22 A. Yes.
23 Q. And what work had you done in that
24 respect?
25 A. We asked if in discovery against

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1 - PETER SHAPIRO -
2 Lehman, that Lehman disclose what credit spread
3 they included when they initially did the
4 agreement in 2002.
5 Q. Okay. And other than that, what else
6 have you done?
7 A. Since this time?
8 Q. At any time since 2008 to the
9 present, what else have you done to determine --
10 to make that inquiry on credit charges?
11 A. The inquiry on credit charges in
12 regard to this agreement?
13 Q. Yeah.
14 A. Well, on this agreement, this was an
15 agreement between Lehman and TSA, so that's the
16 only relevant, you know, indicator you'd have.
17 What did Lehman charge as its credit
18 spread in 2002? There's an answer to that
19 question.
20 Q. Okay. And do you know the answer to
21 that question?
22 A. I haven't seen that produced. Has
23 that been produced?
24 Q. You're the one under oath answering
25 questions.

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1 - PETER SHAPIRO -
2 Did you try and determine what it is
3 that Lehman had included as a credit charge?
4 Could you figure that out from the interest rate
5 environment?
6 A. At the time?
7 Q. At the time that Lehman entered into
8 the RFA with Washington.
9 A. We could back into a gross spread;
10 that is, all of the spread components that Lehman
11 would have come up with in '02.
12 Q. And what would that tell you?
13 A. I'm not recalling what that was. But
14 the process to do it is fairly straightforward.
15 Q. Okay. And again, when you say
16 "spread" that gross spread would be the spread to
17 LIBOR?
18 A. It would be the spread embedded in
19 the agreement. You can call it the spread to
20 LIBOR, the spread to the fixed rate. It doesn't
21 matter. You know, call it spread to LIBOR, if
22 you'd like to.
23 Q. And you said you don't recall what
24 that was. Did you write down somewhere where
25 you'd figured out the gross spread?

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1 - PETER SHAPIRO -
2 A. No, it would have been much more
3 relevant in the mediation phase when we were in
4 dispute, when Lehman was trying to make this
5 argument, which is an absurd one, that there
6 should not be a credit spread. Because obviously
7 they included a credit spread. But it wasn't a
8 relevant consideration at the time we were
9 valuing.
10 Well, it was just to rebut what,
11 frankly, we were astonished Lehman would try to
12 maintain, that there would be no credit spread.
13 Q. In your astonishment and amazement --
14 A. Yes.
15 Q. -- did you try and find out from
16 other dealers in other transactions what the
17 spreads were that they had charged in entering
18 into RFAs with other -- other tobacco authorities?
19 A. I'm not recalling we did. This would
20 be in preparation for mediation which is, we're
21 probably getting a little far afield.
22 Q. Well, I don't care when you did it.
23 Did you do it at all?
24 A. It would have only been in -- in part
25 of the mediation process.

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1 - PETER SHAPIRO -
2 Q. Okay. And if you didn't do it then,
3 you didn't do it?
4 A. Yes.
5 Q. So you didn't do it?
6 A. Hum?
7 Q. So you didn't do it?
8 A. I didn't say that I don't think.
9 Q. Well, if you did look at other
10 dealers and figure out what spreads they charged
11 other tobacco authorities, tell me what you did.
12 A. I'm -- as I said, I'm not -- I can't
13 recall on this.
14 Q. Okay. So you may have done
15 something, but you can't recall anything about it?
16 A. In terms of surveying other dealers
17 for what they would have charged in credit spreads
18 prior to the financial crisis.
19 Q. Yes.
20 A. Yeah, I can't recall on that.
21 Q. I guess what I'm trying to figure out
22 is do you recall ever having done that survey?
23 A. We -- I know we had discussions with
24 dealers about typical credit spreads on these
25 things prior to the financial crisis. I'm just

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1 - PETER SHAPIRO -
2 not recalling details.
3 Q. So, after the financial crisis, after
4 September 2008, you didn't survey any dealers to
5 determine what typical credit spreads would be on
6 these types of arrangements?
7 A. "Would be" is a -- is tricky wording
8 there. You're saying would be in the aftermath of
9 the financial crisis, post Lehman, when there was
10 no market? Or are you saying prior to the
11 financial crisis when they executed?
12 Q. Let's be clear on this. All right.
13 At any time after the financial
14 crisis, did you do the following: Did you ask any
15 dealers what credit charges they had charged at
16 any time on these kinds of arrangements?
17 A. We talked -- we -- we talked to
18 dealers in terms of gross spread and this was
19 really, again, in mediation prep.
20 Q. Okay. And in mediation prep, the
21 mediation in this matter or for some other matter?
22 A. For this matter and there are two
23 other mediations that we have been involved in
24 that involve Lehman and tobacco. I think you're
25 aware of both of them.

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1 - PETER SHAPIRO -
2 Q. What dealers did you talk to in terms
3 of gross spreads?
4 A. I can't recall. It's not something I
5 was prepared for.
6 Q. Okay. Did you get any -- well, did
7 you write down the information you got from those
8 dealers?
9 A. I can't recall. I don't -- I'm
10 really not remembering.
11 Q. Well, can you go back and check your
12 files after this deposition to see if you have?
13 A. On mediation prep? For mediation
14 prep? It's confidential mediation matters.
15 Q. Well, you can put it in your log.
16 But did you do it?
17 You're claiming that you did
18 something --
19 A. Yeah.
20 Q. -- you may have written it down --
21 A. I can check --
22 Q. Let me finish my question.
23 A. Sorry.
24 Q. If you believe that it's protected
25 and it's privileged, you can put it in your log.

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1 - PETER SHAPIRO -
2 What I want to know is, did you do it
3 and if you did it, did you write it down?
4 MR. LAWRENCE: Let me say for the
5 record, obviously we provided an extensive
6 privilege log that related to swaps
7 documents, that if such a document were
8 provided in response to your subpoena for our
9 review, it would have been marked as
10 privileged. So just to clarify that point.
11 MR. TAMBE: Okay. All I'll say is
12 it's not entirely clear from the entries on
13 the privilege log whether any of those items
14 might be the results of your speaking to
15 dealers. So we may have some follow up with
16 you on that.
17 MR. LAWRENCE: You should come
18 through us on that one.
19 MR. TAMBE: Absolutely.
20 Q. Did you speak to PFM to see if PFM
21 had begun any analysis -- did you speak to PFM to
22 see if PFM had done any analysis about Lehman's
23 credit charges at the time that Lehman had entered
24 into the transaction with Washington TSA?
25 A. No.

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1 - PETER SHAPIRO -
2 Q. You know that PFM was involved in the
3 bid process, correct?
4 A. Yes.
5 Q. You know that PFM had advised the TSA
6 with respect to the entry into the RFA, correct?
7 A. Correct.
8 Q. Have you spoken with PFM at all about
9 any of the conclusions you have reached concerning
10 the termination value of the Washington RFA?
11 A. No.
12 MR. TAMBE: Let's take a short break.
13 THE VIDEOGRAPHER: The time is
14 3:00 p.m. We're going off the record.
15 (Whereupon, there was a brief recess
16 in the proceedings.)
17 THE VIDEOGRAPHER: The time is
18 3:27 p.m., December 13th, 2013. This is Tape
19 Number 3 in the videotaped deposition of
20 Mr. Peter Shapiro.
21 BY MR. TAMBE:
22 Q. So Mr. Shapiro, let's go back to
23 Lehman Exhibit 15, which is the April 21, 2009
24 memorandum.
25 Now, we discussed earlier that it

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1 - PETER SHAPIRO -
2 calculates values through 2042 and you realize
3 that's wrong; it should be 2032, right?
4 A. Correct.
5 Q. And you're aware that -- you've done
6 some calculation you said in connection with the
7 mediation to account for that?
8 A. Correct.
9 Q. Okay. Just mechanically, what was
10 the calculation you did to go from 2042 to 2032?
11 A. Basically knock off the last ten
12 years' amortization.
13 Q. You didn't run new curves and new
14 spread analyses, did you?
15 A. No, because you had -- you have the
16 old curve that would be in there, you know. It's
17 -- you're doing -- you're basically getting the
18 same thing.
19 Q. So if you had a schedule year by
20 year, effectively what you did was knock out the
21 last ten years, right?
22 A. Correct.
23 Q. Now, in running the analysis the way
24 you did, whether it's 2042 or 2032, you believe
25 the right analysis is to run it to the stated

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1 - PETER SHAPIRO -
2 maturity of the underlying bonds; is that right?
3 A. Correct.
4 Q. Okay. When -- pre-financial crisis,
5 when dealers entered into transactions like this,
6 is it your understanding that they hedged these
7 transactions out to stated maturity?
8 A. My understanding is that they hedged
9 however they felt they were protecting themselves
10 from that risk. My -- from what I understand,
11 some of them may have looked at whether or not
12 they should have embedded an option for the
13 potential that it would have, you know, that it
14 would have terminated earlier due to the turbo
15 bonds, if I can use that term.
16 You know, some of them may have
17 looked at taking a -- you know, doing what
18 sometimes referred to, Jay, as dynamic hedging
19 which you can also call taking a flier on whether
20 that risk would be out there. By "taking a flier"
21 I mean leaving some portion unhedged and just
22 making a guess at it.
23 Different banks allowed different
24 kinds of things on it.
25 Q. Okay. And those variations on dealer

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1 - PETER SHAPIRO -
2 characteristics is not something that you included
3 in the analysis that you did in Lehman Exhibit 15,
4 correct?
5 A. No. We went out on the assumption
6 that Lehman was legally obliged out through the
7 final termination day and that it certainly could
8 not count on any expectation of it coming in
9 earlier.
10 Q. The offering document for the bonds
11 had a disclosure about expected maturity as
12 opposed to stated maturity, correct?
13 A. Correct.
14 Q. Let's take a look at that document.
15 It's been previously marked as Lehman Exhibit 1.
16 That's an excerpt from the offering
17 document for the bonds at issue, correct?
18 A. It appears to be.
19 Q. Now I want to draw your attention to
20 what is Page 2 of Exhibit 1 which is the inside
21 front cover of the offering document.
22 Are you there?
23 A. Yes.
24 Q. You'll see maturity schedules listed
25 there. Do you see that?

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1 - PETER SHAPIRO -
2 A. Correct.
3 Q. For the two different portions of
4 this bond offering, the first one for the 279
5 million portion, there's a projected final turbo
6 redemption date of June 2016.
7 Do you see that?
8 A. Yes.
9 Q. Then for the other portion of 179
10 million, there's a projected final turbo
11 redemption date of June 1, 2019.
12 Do you see that?
13 A. Correct.
14 Q. In both instances there's sort of a
15 projected average life disclosure.
16 Do you see that?
17 A. Correct.
18 Q. And these are not dates that you
19 factored into your analysis, correct?
20 A. No.
21 Q. Now, since the offering in 2002, the
22 Washington TSA has from time to time had
23 discussions at the board level about any expected
24 early payoff of these bonds, correct?
25 Yes?

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1 - PETER SHAPIRO -
2 A. Yes. From only -- I haven't been
3 there for discussions, I just get the minutes.
4 Q. Okay. But you know that's a topic
5 that's discussed, not at every board meeting but
6 many board meetings?
7 A. I've seen it reflected in the minutes
8 I receive in the mail.
9 Q. So when you did your analysis in
10 April 2009, did you look at the most recent
11 discussion of when the Authority expected the
12 bonds to be paid off?
13 A. No.
14 Q. Not relevant to your analysis?
15 A. We didn't think so.
16 Q. Now just the way the math works in
17 your model, so let's go back to Lehman Exhibit 15.
18 If one were to use a maturity date of 2019 as
19 opposed to 2042 or 2032, the loss number that your
20 model would calculate would be smaller than 47
21 million, correct?
22 A. Yes.
23 Q. Have you calculated that number?
24 A. No.
25 Q. Now, have you calculated any other

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1 - PETER SHAPIRO -
2 loss number based on the expected maturities in
3 the Washington TSA's board minutes in 2009, 2010,
4 2011?
5 A. We did look at some hypotheticals.
6 Q. Okay. When did you look at some
7 hypotheticals?
8 A. Subsequently, you know, looking at
9 the time -- around the mediation.
10 Q. Okay. And what hypotheticals did you
11 look at?
12 A. One of the things we looked at was --
13 and this was -- am I allowed to disclose stuff
14 that went on in the mediation?
15 Q. You can disclose stuff that went on
16 in the mediation, but if there are analyses that
17 you did outside of the mediation, you can talk
18 about those. I'm sure Paul will tell you what you
19 can't talk about.
20 A. These were all in the context of the
21 mediation, prompted by some of the questions which
22 Lehman had raised in the mediation regarding
23 credit spread. You may not see the connection,
24 but there is a connection.
25 Q. What is the connection?

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1 - PETER SHAPIRO -
2 A. The connection is, if we want to
3 remove credit spread from the discussion, there's
4 a way to do that and there's a way sometimes
5 dealers have done that, which is, make it so that
6 the agreement is one which has a par call every
7 six months. You know, if you do that, you stick a
8 par call in the agreement every six months, you
9 have six months' worth of credit exposure, not,
10 you know, 30 years' worth of credit exposure.
11 You also, by introducing a par call,
12 severely reduce the yield that a dealer would
13 offer on it because callable at par every six
14 months. So in essence, you make it like it's
15 almost a six-month deal.
16 So we did look at that as a way of
17 saying if we wanted to get to a zero credit risk
18 or near zero credit risk, a six-month credit risk
19 kind of arrangement, how much would that change
20 the valuation. Okay?
21 Q. So you ran analyses on that basis,
22 hypothetical analyses on that basis?
23 A. That's correct. And then we ran
24 another analysis saying, okay, the six-month call
25 would be necessary if we were going to do a swap

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1 - PETER SHAPIRO -
2 that would conform with the requirements, the
3 legal requirements that Washington is under, it
4 had to have the right to a par call every six
5 months. But we ran a further analysis to say,
6 okay, what if we said we didn't start that
7 callability until an earliest possible redemption
8 date on bonds, looking at the turbo element alone,
9 because there are other reasons these bonds could
10 be redeemed other than the turbo, of course; you
11 know, defaults and stuff like that. But we looked
12 at that also.
13 Is that responsive to your question?
14 Q. Yeah. I'm just reading what you
15 said.
16 THE WITNESS: How does that machine
17 work?
18 MR. LAWRENCE: It's real time.
19 MR. TAMBE: In mysterious ways.
20 (Whereupon, a brief discussion was
21 held off record.)
22 Q. All right. On the topic of credit
23 spreads. Again, if I understand your model
24 correctly, once you had calculated the bond
25 spreads, 4.29 percent, you took that entire bond

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1 - PETER SHAPIRO -
2 spread and factored it into your valuation of the
3 RFA, correct?
4 A. Correct.
5 Q. You didn't discount that bond spread
6 or adjust that bond spread in any way, correct?
7 A. No.
8 Q. We talked a little bit about the
9 credit risk that you believe dealers would be
10 anticipating and imposing this credit charge for,
11 correct?
12 A. Correct.
13 Q. It's the -- the credit risk, in your
14 view, was the concern that dealers would have that
15 the actual future interest rates would be
16 different than the forward curve implied rates,
17 correct?
18 A. No, that was what you had asked
19 about.
20 Q. Okay. Well, what is the credit risk,
21 then, that dealers faced that they needed a credit
22 charge for?
23 A. There are multiple places where it
24 can come up. One is the illustration you gave.
25 Another one would be that -- remember that the

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1 - PETER SHAPIRO -
2 dealer does a hedge on this contract. If
3 Washington defaults on the contract and the dealer
4 still has the offsetting hedge in place, he owes
5 on that offsetting hedge. So you have to look at
6 it in that way as well.
7 Q. I'm just trying to understand the
8 credit charge that you're adding here. Just tell
9 me all the reasons why you put the credit
10 charge --
11 A. Why credit charges --
12 Q. No, no, no. Let me -- tell me all
13 the reasons why you have imposed a 4.29 percent
14 credit charge in valuing this transaction.
15 A. You know, you word it in a way you're
16 saying all the reasons so I'm worried about not
17 being absolutely complete. I'm trying to the best
18 of my ability to think of the major reasons, but I
19 don't want to -- you know, if something occurs to
20 me later that I left out in recounting all of the
21 reasons, I might not be as complete as I should
22 be, but let me just try to summarize.
23 Every swap agreement has a credit
24 charge that needs to be built into it. That
25 credit charge will -- will vary from something

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1 - PETER SHAPIRO -
2 which would be a superlative credit, a AAA credit,
3 down to one which would be a weaker credit, going
4 down to BBB or you can sub investment grade.
5 It will be based upon all kinds of
6 facts and circumstances regarding swap; what the
7 structure is like, what the potential risks are
8 like one way or another. You know, on it -- how
9 deeply in the money or out of the money it is,
10 whether there are any up front cash flows that
11 changed hands at the beginning of it. All kinds
12 of elements could go on in that.
13 So you look at a credit charge on
14 that in the context of the transaction.
15 MR. TAMBE: Can you read back my
16 question.
17 Q. Try to answer my question as opposed
18 to a generality.
19 I want to know why you did it in this
20 case.
21 A. We would have done all of that in
22 this case.
23 Q. Okay. The question is not what you
24 would have done. What did you actually do? Did
25 you actually do all of those analyses in deciding

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1 - PETER SHAPIRO -
2 to apply a 4.29 percent credit charge in this
3 case?
4 A. No. We would look, this -- in this
5 case, when you're saying where do we get the
6 number from, we got the number from the bond
7 market. There's no other good indicator of credit
8 spread on this one. There's no, as I mentioned,
9 no CDS, no credit default swap in -- in reference
10 to this credit.
11 Q. In your previous answer you said one
12 of the factors that would play into the credit
13 charge is how much in the money or out of the
14 money the swap was, correct?
15 A. Correct.
16 Q. Okay. Did you do any kind of
17 analysis in this case in determining how much of a
18 credit charge to apply to determine how much in or
19 out of the money a dealer would be stepping into
20 this transaction?
21 A. On this one? No, we're looking at
22 the bond spread. We're using that as our best
23 indicator.
24 Q. A few minutes ago we went down this
25 path of discussion when I asked you a question

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1 - PETER SHAPIRO -
2 about the probability of or the possibility that
3 actual interest rates in the future would be
4 different than future interest rates depicted by a
5 forward curve.
6 Do you remember that?
7 A. Yes.
8 Q. Before we took our last break we had
9 some discussion on that point.
10 Do you remember that?
11 A. Yes.
12 Q. And I believe one of the things you
13 said is the forward curve very often doesn't get
14 it right.
15 A. Usually doesn't get it right. The
16 forward curve is usually wrong.
17 Q. That's because no one can really
18 predict the future, correct?
19 A. Exactly. If we could, we wouldn't be
20 sitting here.
21 Q. And notwithstanding that, forward
22 curves of the type that you've described and used,
23 are used every day in the financial markets to
24 price and trade securities, correct?
25 A. And --and there's an active hedging

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1 - PETER SHAPIRO -
2 market used in forward curves, for most forward
3 curves.
4 Q. So the fact that the forward curve
5 doesn't get it right as time marches on, isn't a
6 reason not use those forward curves, correct?
7 A. Depend -- it's -- it's important to
8 use them appropriately for certain purposes. You
9 know, as I've mentioned in prior testimony, you
10 can't use them for forecasting credit risk. You
11 can't use them for hedging agencies. You can use
12 them for other things.
13 Q. And just rough estimates in terms of
14 notional values of transactions in a given year,
15 how -- what's the size of transactions that are
16 entered into on the basis of forward curve
17 assumptions?
18 MR. LAWRENCE: Object to the form of
19 the question.
20 Q. Is it trillions of dollars?
21 A. It would have to be. The -- the
22 entire swap market is based upon forward curves.
23 You know, that's when you're looking at interest
24 rate hedging, hedgeable forward curve market, you
25 know, the total outstandings is estimated at

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1 - PETER SHAPIRO -
2 something on the order of 400 trillion.
3 Q. That's a big number.
4 A. That's outstanding. And that's for
5 many, many years. You asked each year. Yeah.
6 Q. All right. I'm handing you, sir,
7 what's been marked previously as Lehman Exhibit
8 22.
9 MS. SAWYER: I think it's 12.
10 Q. I'm sorry, 12. Lehman Exhibit 12.
11 And this is also I believe covered by one of the
12 30(b)(6) topics, so this is a 30(b)(6) series of
13 questions I'm going to be asking you.
14 You recognize this as the declaration
15 you submitted in this case, correct?
16 A. Yes.
17 Q. I want to draw your attention to Page
18 3 of your declaration and Paragraph 7 in
19 particular.
20 Do you see that?
21 A. Yes.
22 Q. Okay. You state in this declaration
23 that as of January 12th, 2009, LBSF was out of the
24 money under the RFA and the RFA was terminated on
25 that date. The termination amount owed to TSA

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1 - PETER SHAPIRO -
2 under the RFA would be roughly 27.5 million.
3 Do you see that?
4 A. Correct.
5 Q. What was the analysis that you did to
6 determine that number?
7 A. Same analysis that you're seeing on
8 the -- in Exhibit 15.
9 Q. Okay. So to be clear, in calculating
10 the \$27.5 million number, you started with a CP
11 spread, correct? Yes?
12 A. We included a CP spread, a credit
13 spread and a profit spread. I'm not going to
14 testify which one we started with. I don't -- you
15 know, all three were included, Jay. Yeah.
16 Q. So if all three were included, what
17 CP spread was included?
18 A. I -- I don't have it in front of me.
19 Q. Okay. What did you do to prepare for
20 this part of your deposition?
21 A. What did I do?
22 Q. Yeah.
23 A. I just -- I read over the
24 declaration. I didn't go back and look at whether
25 we had any record on this and whether I

<p style="text-align: right;">Page 198</p> <p>1 - PETER SHAPIRO - 2 remembered. You know, we would have calculated 3 this the same way. 4 Q. And where would you have calculated 5 this? 6 A. Just the way I've described before; 7 we would have looked at a Bloomberg screen, looked 8 at where CP spreads were at that point. 9 Q. Okay. What credit spread would you 10 have used? 11 A. It would have been the same 12 methodology, it would have looked at again the 13 bond credit spread as described in the loss memo. 14 Q. And when you say we would have done 15 it, would you have done it or would -- 16 A. No, James would have done it. 17 Q. James would have done it? 18 A. Yeah. 19 Q. And if James didn't do it, who else 20 would have done it? 21 A. That's very -- that requires me to 22 make a lot of suppositions. If James did not do 23 it? He did it. 24 Q. So if James said at his deposition he 25 didn't do it, he's either mistaken or lying or</p>	<p style="text-align: right;">Page 200</p> <p>1 - PETER SHAPIRO - 2 Q. Then you say, "Interest rates are the 3 primary determinant of the replacement cost of the 4 RFA." 5 Was that an accurate statement when 6 you made it? 7 A. Yes. 8 Q. Do you believe that to be an accurate 9 statement today? 10 A. Yes. 11 Q. All right. Starting in December -- 12 starting in December 2008 to the present, Swap 13 Financial Group has had a series of contracts with 14 the Washington TSA, correct? 15 THE WITNESS: Read that back, if I 16 could. 17 (The question requested was read back 18 by the reporter.) 19 A. Yes. 20 Q. What are the total amount of fees 21 that Swap Financial Group has been paid by the 22 Washington TSA from December 2008 to the present? 23 A. I haven't summed that up. 24 Q. There are records that exist at Swap 25 Financial Group that certainly would tell you</p>
<p style="text-align: right;">Page 199</p> <p>1 - PETER SHAPIRO - 2 something else? 3 A. I would assume he's mistaken. 4 Q. You didn't do it? 5 A. I didn't do it, no. You know, is 6 there a possibility that James is correct and that 7 there was some other staff person that filled in 8 who he instructed about what his methodology had 9 been because he was absent or sick that day? 10 Absolutely, that's possible. But that's not what 11 I remember. That would -- that would catch me by 12 surprise. 13 Q. And just so I'm clear, other than 14 what you've done to prepare for this deposition, 15 is there any other information that you believe 16 the Washington TSA has as to how that number that 17 appears in your declaration was derived? 18 A. Not that I'm aware of. 19 Q. Further up in your declaration you 20 state the following, in Paragraph 6, second 21 sentence: "The rights and obligations of 22 termination are highly sensitive to fluctuations 23 in market rates of interest." 24 Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 201</p> <p>1 - PETER SHAPIRO - 2 that? 3 A. Certainly, yes. 4 Q. You believe that number to be more 5 than 200,000 or less than 200,000? 6 A. I don't want to guess. Okay. 7 Q. Well, let's leave a blank and you can 8 provide us with the total amount of fees paid by 9 the Washington TSA to Swap Financial Group from 10 December 2008 to the present, okay? 11 INSERT 12 MR. LAWRENCE: If you put the request 13 through me. 14 MR. TAMBE: All right. 15 Q. You are currently under a contract 16 with Washington TSA? 17 A. Correct. 18 Q. What's the nature of that contract? 19 A. You know, it's an advisory contract 20 to Washington TSA. 21 Q. Is it a continuation of the contract 22 that was entered into in 2010 following the RFP? 23 A. I believe so. I believe it's an 24 extension of that contract. 25 Q. When was the last time you spoke with</p>

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1 - PETER SHAPIRO -
2 Greg Schliensky?
3 A. It would have been within the past
4 few months. It would not have been within the
5 past one month.
6 Q. Did you discuss anything having to do
7 with Lehman or this matter?
8 A. Yes.
9 Q. What did you discuss with Mr.
10 Schliensky?
11 A. You know, I let him know that, as a
12 courtesy, that he was going to be requested to
13 give a deposition rather than have him get a
14 subpoena. I know him very well personally, so I
15 wanted to make sure, rather than have him just get
16 a cold subpoena, he would get the courtesy of a
17 call.
18 Q. Other than giving him this heads up,
19 any other matters of substance that you discussed
20 with him?
21 A. We have other unrelated dealings and
22 we probably touched on some of other things.
23 Q. I don't want to ask you about your
24 unrelated dealings. Anything of substance related
25 to this matter?

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1 - PETER SHAPIRO -
2 A. No, no, I'd be very, very careful on
3 something like that.
4 Q. How about Jaime Lister, is that
5 someone you know?
6 A. Yes.
7 Q. When's the last time you spoke to
8 Jaime Lister?
9 A. Probably the same day.
10 Q. For the same purpose?
11 A. Exactly.
12 Q. Did you discuss anything of substance
13 with that, related to this matter?
14 A. No.
15 Q. Were there any other former Lehman
16 employees that you spoke with?
17 A. Yes.
18 Q. Who else?
19 A. Anatoly Zelikoff.
20 Q. Was it again for the same purpose?
21 A. Exactly.
22 Q. Again, you didn't discuss anything of
23 substance related to this matter did you?
24 A. On that call he raised an issue.
25 Q. What issue did he raise?

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1 - PETER SHAPIRO -
2 A. He said, I barely remember this deal.
3 I was just hired there. He was a little bit
4 nervous that this thing coming in, you know. And
5 I said, you know, it doesn't -- I tried to
6 reassure him, it doesn't matter, just answer to
7 the best of your ability.
8 Q. Do you remember anything else from
9 that call?
10 A. No, he's an extremely nice guy.
11 Q. I'd agree with you on that.
12 Have you spoken with anyone from PFM
13 about this matter at all at any time?
14 A. Not that I can recall, no. I don't
15 think at all. You know, we have lots of dealings
16 with PFM, as I've spoken, I don't think I've ever
17 spoken about this.
18 Q. Earlier on in the deposition, maybe
19 in the morning, you talked about a cumulative cash
20 flow analysis.
21 Do you remember that?
22 A. We've talked about so many things,
23 Jay, help me out here.
24 Q. There was a point in time I said
25 other than the interest rate swap methodology --

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1 - PETER SHAPIRO -
2 A. Right.
3 Q. -- Did you use any other methodology
4 to try and value the swap and I believe a phrase
5 you used then was you did something that you
6 referred to as a cumulative cash flow analysis.
7 A. Cash flow losses, right.
8 Q. When did you do that?
9 A. I think I said this earlier, but we
10 did this around the mediation.
11 MR. TAMBE: We can take a short
12 break, I think we're almost done.
13 THE VIDEOGRAPHER: The time is
14 3:56 p.m. We're going off the record.
15 (Whereupon, there was a brief recess
16 in the proceedings.)
17 THE VIDEOGRAPHER: The time is
18 4:09 p.m. We're back on the record.
19 MR. TAMBE: Thank you very much for
20 your time, Mr. Shapiro.
21 MR. LAWRENCE: Before you finish. In
22 response to the 30(b)(6), 5B calculation, the
23 termination amount --
24 MR. TAMBE: Yeah.
25 MR. LAWRENCE: You'd asked a question

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<p>1 - PETER SHAPIRO - 2 that Peter had forgotten the answer to and I 3 asked him to confirm what the proper answer 4 to and that is, his revised calculation based 5 on the 2032 date as opposed to the 2042 date. 6 MR. TAMBE: Okay. 7 MR. LAWRENCE: So I would like him to 8 state that on the record. If you need 9 further follow-up questions, obviously you 10 understand the basis for it. 11 Can you state that on the record 12 please? 13 THE WITNESS: \$38,007,347. So just 14 to state it in numerals; 38,007,347. 15 BY MR. TAMBE: 16 Q. And that does that include failed 17 deliveries? 18 A. I believe that does not. I think 19 failed deliveries are tacked on to that. I can 20 turn back to look at that. I think that's a -- 21 that's a direct comparison with the 40-odd million 22 dollar number we were talking about before. 23 Q. Well, the 40-odd million dollar 24 number was the \$47 million number -- 25 A. Yes.</p>	<p>1 - PETER SHAPIRO - 2 relating to the unpaid amounts? 3 A. Yes, that's where Lehman's failure to 4 pay on the contract in the interim period, that's 5 the fails. 6 Q. So now that you see that there -- 7 your \$38 million number that you just testified 8 to, do you believe that includes Lehman's failure 9 to perform or it does not include? 10 A. No, I don't believe it does. It 11 backs up to the 46,437,610 number. 12 Q. So, to get to the -- to your 13 calculation of loss, all in loss as of 2032, you 14 take the number you just testified to and add the 15 533 to that? 16 A. 533 or 553? 17 Q. 553. 18 A. Okay. 19 Q. Is that right? 20 A. Yes. 21 MR. TAMBE: Thank you. Any other 22 corrections? 23 Thank you. Thanks for your time. 24 THE WITNESS: Thank you. Nice 25 spending the day with you.</p>
Page 207	Page 209
<p>1 - PETER SHAPIRO - 2 Q. Do you know if that number includes 3 fails or not? 4 A. If it did, then both numbers do. I'd 5 have to look back. They're in the same place in 6 their calculations. 7 MR. TAMBE: Give me just one second. 8 Q. Let's just -- so if you'd look at the 9 September -- if you look at the September 19 -- 10 September 10th document which is Lehman Exhibit 11 19. 12 Do you have that? 13 MR. LAWRENCE: I think that was 14 handed to you earlier. 15 THE WITNESS: I'm sure it was. But 16 give me a second. I left these things 17 folded, so... 18 A. Yeah. 19 Q. So, if you look at the third page of 20 Exhibit 19 at the end of that document, there's a 21 reference to a difference of 553,080. 22 A. Correct. 23 Q. Do you see that? 24 A. Yes. 25 Q. Do you recognize that as an amount</p>	<p>1 - PETER SHAPIRO - 2 THE VIDEOGRAPHER: The time is 3 4:12 p.m., December 13, 2013. This completes 4 the videotaped deposition of Mr. Peter 5 Shapiro. 6 (Whereupon, the deposition concluded 7 at 4:12 p.m.) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1
2 A C K N O W L E D G E M E N T
3
4 STATE OF NEW YORK)
5) ss.
6 COUNTY OF NEW YORK)
7
8 I, PETER SHAPIRO, hereby certify that I have
9 read the transcript of my testimony taken under
10 oath in my deposition of December 13, 2013; that
11 the transcript is a true, complete and correct
12 record of my testimony, and that the answers on
13 the record as given by me are true and correct.
14
15 _____
16 PETER SHAPIRO
17
18 Subscribed and sworn
19 to before me on this the
20 _____ day of _____, 2013.
21 Notary Public, State of New York
22
23
24
25

Page 211

1
2 C E R T I F I C A T E
3 STATE OF NEW YORK)
4) ss.
5 COUNTY OF NEW YORK)
6
7 I, HOPE LYNN MENAKER, a Notary Public within
8 and for the State of New York, do hereby certify:
9 That PETER SHAPIRO, the witness whose
10 deposition is hereinbefore set forth, was duly
11 sworn by me and that such deposition is a true
12 record of the testimony given by the witness.
13 I further certify that I am not related to
14 any of the parties to this action by blood or
15 marriage, and that I am in no way interested in
16 the outcome of this matter.
17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this December 18, 2013.
19
20 _____
21 HOPE LYNN MENAKER
22
23
24
25

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1
2 I N D E X
3
4 WITNESS: PETER SHAPIRO
5 EXAMINATION BY PAGE
6 MR. TAMBE 4
7
8 REQUEST FOR ADDITIONAL INFORMATION PAGE
9 Total amount of fees paid by the Washington 201
10 TSA to Swap Financial Group from December
11 2008 to the present
12 INSTRUCTED NOT TO ANSWER PAGE
13 MR. LAWRENCE 23
14 MR. LAWRENCE 25
15 MR. LAWRENCE 25
16 MR. LAWRENCE 26
17 MR. LAWRENCE 31
18 MR. LAWRENCE 36
19 MR. LAWRENCE 36
20 MR. LAWRENCE 36
21 MR. LAWRENCE 36
22 MR. LAWRENCE 37
23 MR. LAWRENCE 37
24 MR. LAWRENCE 37
25

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1
2 I N D E X (cont'd)
3
4 MR. LAWRENCE 37
5 MR. LAWRENCE 37
6 MR. LAWRENCE 37
7 MR. LAWRENCE 37
8 MR. LAWRENCE 38
9 MR. LAWRENCE 38
10 MR. LAWRENCE 38
11
12 EXHIBITS FOR IDENTIFICATION
13 NUMBER DESCRIPTION PAGE
14 1 PREMARKED: Subpoena dated 8
15 8/27/13
16 2 PREMARKED: Subpoena dated 27
17 11/1/13
18 3 PREMARKED: 30(b)(6) Notice 33
19 4 SGF 001917 69
20 5 SFG 001916 - 917 75
21 6 TSA 038481 - 483 86
22 7 SFG 001885 - 899 92
23 9 PREMARKED: SFG 001920 93
24 8 PREMARKED: SFG001855 100
25

CAPTION: *In Re: Lehman Brothers Holdings, Inc., et al*
Case No.: Chapter 11 Case No. 08-13555 (JMP)

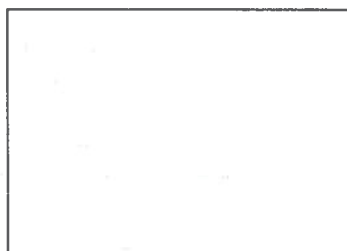
DEPOSITION DATE: December 13, 2013

I have read the transcript of my deposition taken on December 13, 2013, at New York, New York, and make the following corrections:

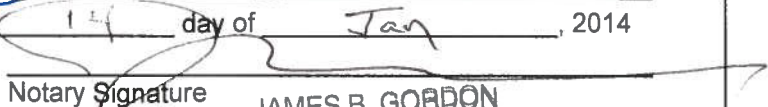
PAGE	LINE	CHANGE	TO	REASON FOR CHANGE
105	15	no	(delete)	mistake
109	21	Insert "shut" following "s. up 4"		"
118	18	Rich	Reich	spelling error
121	20	Base	basis	mistake
128	22	They've	They	"
134	7	pre-bond	Prebon	"
137	2	traded right way	Traded right away	"
151	4	you're	your	"

Witness Signature: 

Subscribed and sworn to me before this 14 day of Jan, 2014



Seal

Notary Signature 

JAMES B. GORDON

NOTARY PUBLIC OF NEW JERSEY

Print Name

My Commission Expires Feb. 19, 2017

Notary Public for the State of

NJ

Residing at 71 So. Orange Ave, S.O., NJ

My commission expires

WITNESS NAME: Peter Shapiro